

# Washington State Register

February 19, 2003

OLYMPIA, WASHINGTON

ISSUE 03-04



## IN THIS ISSUE

- |   |   |
|---|---|
| Aging and Disability Services Administration  | Higher Education Coordinating Board       |
| Agriculture, Department of                    | Horse Racing Commission                   |
| Asian Pacific American Affairs, Commission on | Labor and Industries, Department of       |
| Attorney General's Office                     | Licensing, Department of                  |
| Barley Commission                             | Lottery Commission                        |
| Bates Technical College                       | Lottery, Washington State                 |
| Bellevue Community College                    | Medical Assistance Administration         |
| Cemetery Board                                | Military Department                       |
| Children's Administration                     | Natural Heritage Advisory Council         |
| Clemency and Pardons Board                    | Natural Resources, Department of          |
| County Road Administration Board              | Noxious Weed Control Board                |
| Dairy Products Commission                     | Optometry, Board of                       |
| Eastern Washington University                 | Parks and Recreation Commission           |
| Ecology, Department of                        | Peninsula College                         |
| Economic Development Finance Authority        | Pharmacy, Board of                        |
| Economic Services Administration              | Public Disclosure Commission              |
| Education, State Board of                     | Puget Sound Clean Air Agency              |
| Employment Security Department                | Retirement Systems, Department of         |
| Financial Institutions, Department of         | Revenue, Department of                    |
| Fish and Wildlife, Department of              | Skagit Valley College                     |
| Forest Practices Board                        | Social and Health Services, Department of |
| Funeral Directors and Embalmers, Board of     | State Capitol Committee                   |
| Gambling Commission                           | Transportation, Department of             |
| General Administration, Department of         | Utilities and Transportation Commission   |
| Governor, Office of the                       | Veterinary Board of Governors             |
| Health Care Authority                         | Washington State Patrol                   |
| Health, Department of                         | Wine Commission                           |

## CITATION

Cite all material in the Washington State Register by its issue number and sequence within that issue, preceded by the acronym WSR. Example: the 37th item in the August 5, 1981, Register would be cited as WSR 81-15-037.

## PUBLIC INSPECTION OF DOCUMENTS

A copy of each document filed with the code reviser's office, pursuant to chapter 34.05 RCW, is available for public inspection during normal office hours. The code reviser's office is located on the ground floor of the Legislative Building in Olympia. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except legal holidays. Telephone inquiries concerning material in the Register or the Washington Administrative Code (WAC) may be made by calling (360) 786-6697.

## REPUBLICATION OF OFFICIAL DOCUMENTS

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## CERTIFICATE

Pursuant to RCW 34.08.040, the publication of rules or other information in this issue of the Washington State Register is hereby certified to be a true and correct copy of such rules or other information, except that headings of public meeting notices have been edited for uniformity of style.

DENNIS W. COOPER  
Code Reviser

## STATE MAXIMUM INTEREST RATE (Computed and filed by the State Treasurer under RCW 19.52.025)

The maximum allowable interest rate applicable for the month of February 2003 pursuant to RCW 19.52.020 is twelve point zero percent (12.00%).

NOTICE: FEDERAL LAW PERMITS FEDERALLY INSURED FINANCIAL INSTITUTIONS IN THE STATE TO CHARGE THE HIGHEST RATE OF INTEREST THAT MAY BE CHARGED BY ANY FINANCIAL INSTITUTION IN THE STATE. THE MAXIMUM ALLOWABLE RATE OF INTEREST SET FORTH ABOVE MAY NOT APPLY TO A PARTICULAR TRANSACTION.

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# STYLE AND FORMAT OF THE WASHINGTON STATE REGISTER

## 1. ARRANGEMENT OF THE REGISTER

The Register is arranged in the following eight sections:

- (a) **PREPROPOSAL**-includes the Preproposal Statement of Inquiry that will be used to solicit public comments on a general area of proposed rule making before the agency files a formal notice.
- (b) **PROPOSED**-includes the full text of formal proposals, continuances, supplemental notices, and withdrawals.
- (c) **EXPEDITED RULE MAKING**-includes the full text of the rule being proposed using the expedited rule-making process. Expedited rule makings are not consistently filed and may not appear in every issue of the register.
- (d) **PERMANENT**-includes the full text of permanently adopted rules.
- (e) **EMERGENCY**-includes the full text of emergency rules and rescissions.
- (f) **MISCELLANEOUS**-includes notice of public meetings of state agencies, rules coordinator notifications, summaries of attorney general opinions, executive orders and emergency declarations of the governor, rules of the state Supreme Court, and other miscellaneous documents filed with the code reviser's office under RCW 34.08.020 and 42.30.075.
- (g) **TABLE**-includes a cumulative table of the WAC sections that are affected in the current year.
- (h) **INDEX**-includes a cumulative index of Register Issues 01 through 24.

Documents are arranged within each section of the Register according to the order in which they are filed in the code reviser's office during the pertinent filing period. Each filing is listed under the agency name and then describes the subject matter, type of filing and the WSR number. The three part number in the heading distinctively identifies each document, and the last part of the number indicates the filing sequence with a section's material.

## 2. PRINTING STYLE—INDICATION OF NEW OR DELETED MATERIAL

RCW 34.05.395 requires the use of certain marks to indicate amendments to existing agency rules. This style quickly and graphically portrays the current changes to existing rules as follows:

- (a) In amendatory sections—
  - (i) underlined material is new material;
  - (ii) deleted material is ((~~timed out between double parentheses~~));
- (b) Complete new sections are prefaced by the heading NEW SECTION;
- (c) The repeal of an entire section is shown by listing its WAC section number and caption under the heading REPEALER.

## 3. MISCELLANEOUS MATERIAL NOT FILED UNDER THE ADMINISTRATIVE PROCEDURE ACT

Material contained in the Register other than rule-making actions taken under the APA (chapter 34.05 RCW) does not necessarily conform to the style and format conventions described above. The headings of these other types of material have been edited for uniformity of style; otherwise the items are shown as nearly as possible in the form submitted to the code reviser's office.

## 4. EFFECTIVE DATE OF RULES

- (a) Permanently adopted agency rules normally take effect thirty-one days after the rules and the agency order adopting them are filed with the code reviser's office. This effective date may be delayed or advanced and such an effective date will be noted in the promulgation statement preceding the text of the rule.
- (b) Emergency rules take effect upon filing with the code reviser's office unless a later date is provided by the agency. They remain effective for a maximum of one hundred twenty days from the date of filing.
- (c) Rules of the state Supreme Court generally contain an effective date clause in the order adopting the rules.

## 5. EDITORIAL CORRECTIONS

Material inserted by the code reviser's office for purposes of clarification or correction or to show the source or history of a document is enclosed in [brackets].

**2002-2003**  
**DATES FOR REGISTER CLOSING, DISTRIBUTION, AND FIRST AGENCY ACTION**

Issue Number	Closing Dates <sup>1</sup>			Distribution Date	First Agency Hearing Date <sup>3</sup>	Expedited Adoption <sup>4</sup>
	Non-OTS and 30 p. or more	Non-OTS and 11 to 29 p.	OTS <sup>2</sup> or 10 p. max.			
<i>For</i>						
<i>Inclusion in -</i>	<i>File no later than 12:00 noon -</i>			<i>Count 20 days from -</i>	<i>For hearing on or after</i>	<i>First Agency Adoption Date</i>
02 - 15	Jun 26, 02	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 27, 02	Sep 24, 02
02 - 16	Jul 10, 02	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 10, 02	Oct 8, 02
02 - 17	Jul 24, 02	Aug 7, 02	Aug 21, 02	Sep 4, 02	Sep 24, 02	Oct 22, 02
02 - 18	Aug 7, 02	Aug 21, 02	Sep 4, 02	Sep 18, 02	Oct 8, 02	Nov 5, 02
02 - 19	Aug 21, 02	Sep 4, 02	Sep 18, 02	Oct 2, 02	Oct 22, 02	Nov 19, 02
02 - 20	Sep 4, 02	Sep 18, 02	Oct 2, 02	Oct 16, 02	Nov 5, 02	Dec 3, 02
02 - 21	Sep 25, 02	Oct 9, 02	Oct 23, 02	Nov 6, 02	Nov 26, 02	Dec 24, 02
02 - 22	Oct 9, 02	Oct 23, 02	Nov 6, 02	Nov 20, 02	Dec 10, 02	Jan 7, 03
02 - 23	Oct 23, 02	Nov 6, 02	Nov 20, 02	Dec 4, 02	Dec 24, 02	Jan 22, 03
02 - 24	Nov 6, 02	Nov 20, 02	Dec 4, 02	Dec 18, 02	Jan 7, 03	Feb 4, 03
03 - 01	Nov 21, 02	Dec 5, 02	Dec 19, 02	Jan 2, 03	Jan 22, 03	Feb 19, 03
03 - 02	Dec 5, 02	Dec 19, 02	Jan 2, 03	Jan 15, 03	Feb 4, 03	Mar 4, 03
03 - 03	Dec 26, 02	Jan 8, 03	Jan 22, 03	Feb 5, 03	Feb 25, 03	Mar 25, 03
03 - 04	Jan 8, 03	Jan 22, 03	Feb 5, 03	Feb 19, 03	Mar 11, 03	Apr 8, 03
03 - 05	Jan 22, 03	Feb 5, 03	Feb 19, 03	Mar 5, 03	Mar 25, 03	Apr 22, 03
03 - 06	Feb 5, 03	Feb 19, 03	Mar 5, 03	Mar 19, 03	Apr 8, 03	May 6, 03
03 - 07	Feb 19, 03	Mar 5, 03	Mar 19, 03	Apr 2, 03	Apr 22, 03	May 20, 03
03 - 08	Mar 5, 03	Mar 19, 03	Apr 2, 03	Apr 16, 03	May 6, 03	Jun 3, 03
03 - 09	Mar 26, 03	Apr 9, 03	Apr 23, 03	May 7, 03	May 27, 03	Jun 24, 03
03 - 10	Apr 9, 03	Apr 23, 03	May 7, 03	May 21, 03	Jun 10, 03	Jul 8, 03
03 - 11	Apr 23, 03	May 7, 03	May 21, 03	Jun 4, 03	Jun 24, 03	Jul 22, 03
03 - 12	May 7, 03	May 21, 03	Jun 4, 03	Jun 18, 03	Jul 8, 03	Aug 5, 03
03 - 13	May 21, 03	Jun 4, 03	Jun 18, 03	Jul 2, 03	Jul 22, 03	Aug 19, 03
03 - 14	Jun 4, 03	Jun 18, 03	Jul 2, 03	Jul 16, 03	Aug 5, 03	Sep 3, 03
03 - 15	Jun 25, 03	Jul 9, 03	Jul 23, 03	Aug 6, 03	Aug 26, 03	Sep 23, 03
03 - 16	Jul 9, 03	Jul 23, 03	Aug 6, 03	Aug 20, 03	Sep 9, 03	Oct 7, 03
03 - 17	Jul 23, 03	Aug 6, 03	Aug 20, 03	Sep 3, 03	Sep 23, 03	Oct 21, 03
03 - 18	Aug 6, 03	Aug 20, 03	Sep 3, 03	Sep 17, 03	Oct 7, 03	Nov 4, 03
03 - 19	Aug 20, 03	Sep 3, 03	Sep 17, 03	Oct 1, 03	Oct 21, 03	Nov 18, 03
03 - 20	Sep 3, 03	Sep 17, 03	Oct 1, 03	Oct 15, 03	Nov 4, 03	Dec 2, 03
03 - 21	Sep 24, 03	Oct 8, 03	Oct 22, 03	Nov 5, 03	Nov 25, 03	Dec 23, 03
03 - 22	Oct 8, 03	Oct 22, 03	Nov 5, 03	Nov 19, 03	Dec 9, 03	Jan 6, 04
03 - 23	Oct 22, 03	Nov 5, 03	Nov 19, 03	Dec 3, 03	Dec 23, 03	Jan 20, 04
03 - 24	Nov 5, 03	Nov 19, 03	Dec 3, 03	Dec 17, 03	Jan 6, 04	Feb 3, 04

<sup>1</sup> All documents are due at the code reviser's office by 12:00 noon on or before the applicable closing date for inclusion in a particular issue of the Register; see WAC 1-21-040.

<sup>2</sup> A filing of any length will be accepted on the closing dates of this column if it has been prepared and completed by the order typing service (OTS) of the code reviser's office; see WAC 1-21-040. Agency-typed material is subject to a ten page limit for these dates; longer agency-typed material is subject to the earlier non-OTS dates.

<sup>3</sup> At least twenty days before the rule-making hearing, the agency shall cause notice of the hearing to be published in the Register; see RCW 34.05.320(1). These dates represent the twentieth day after the distribution date of the applicable Register.

<sup>4</sup> A minimum of forty-five days is required between the distribution date of the Register giving notice of the expedited adoption and the agency adoption date. No hearing is required, but the public may file written objections. See RCW 34.05.230 and 1.12.040.

## **REGULATORY FAIRNESS ACT**

The Regulatory Fairness Act, chapter 19.85 RCW, was enacted in 1982 to minimize the impact of state regulations on small business. Amended in 1994, the act requires a small business economic impact analysis of proposed rules that impose more than a minor cost on twenty percent of the businesses in all industries, or ten percent of the businesses in any one industry. The Regulatory Fairness Act defines industry as businesses within a four digit SIC classification, and for the purpose of this act, small business is defined by RCW 19.85.020 as "any business entity, including a sole proprietorship, corporation, partnership, or other legal entity, that is owned and operated independently from all other businesses, that has the purpose of making a profit, and that has fifty or fewer employees."

### **Small Business Economic Impact Statements (SBEIS)**

A small business economic impact statement (SBEIS) must be prepared by state agencies when a proposed rule meets the above criteria. Chapter 19.85 RCW requires the Washington State Business Assistance Center (BAC) to develop guidelines for agencies to use in determining whether the impact of a rule is more than minor and to provide technical assistance to agencies in developing a SBEIS. All permanent rules adopted under the Administrative Procedure Act, chapter 34.05 RCW, must be reviewed to determine if the requirements of the Regulatory Fairness Act apply; if an SBEIS is required it must be completed before permanent rules are filed with the Office of the Code Reviser.

### **Mitigation**

In addition to completing the economic impact analysis for proposed rules, state agencies must take reasonable, legal, and feasible steps to reduce or mitigate the impact of rules on small businesses when there is a disproportionate impact on small versus large business. State agencies are encouraged to reduce the economic impact of rules on small businesses when possible and when such steps are in keeping with the stated intent of the statute(s) being implemented by proposed rules. Since 1994, small business economic impact statements must contain a list of the mitigation steps taken, or reasonable justification for not taking steps to reduce the impact of rules on small businesses.

### **When is an SBEIS Required?**

When:

The proposed rule has more than a minor (as defined by the BAC) economic impact on businesses in more than twenty percent of all industries or more than ten percent of any one industry.

### **When is an SBEIS Not Required?**

When:

The rule is proposed only to comply or conform with a federal law or regulation, and the state has no discretion in how the rule is implemented;

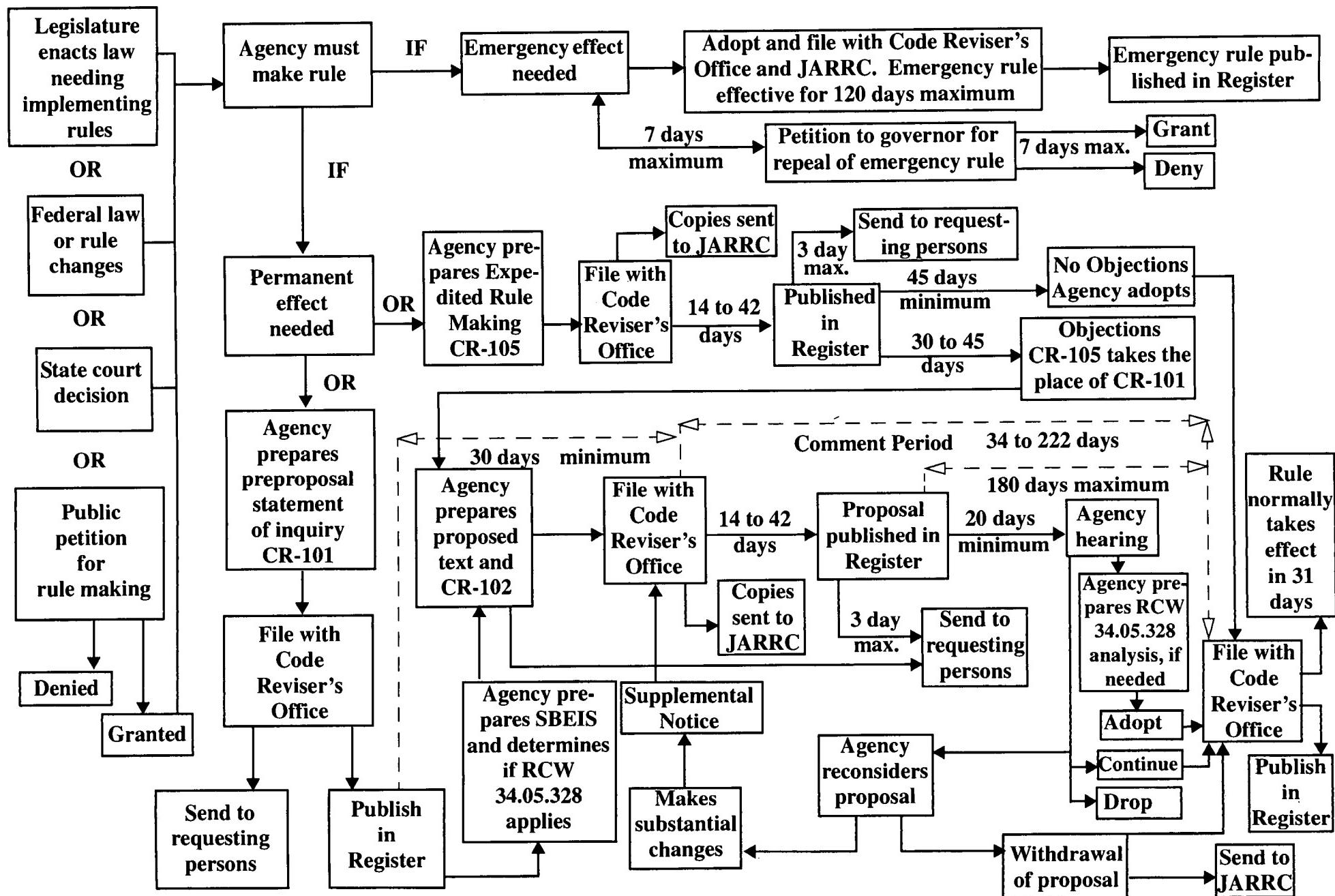
There is less than minor economic impact on business;

The rule REDUCES costs to business (although an SBEIS may be a useful tool for demonstrating this reduced impact);

The rule is adopted as an emergency rule, although an SBEIS may be required when an emergency rule is proposed for adoption as a permanent rule; or

The rule is pure restatement of state statute.

# RULE-MAKING PROCESS



**WSR 03-04-004**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed January 24, 2003, 2:49 p.m.]

**Subject of Possible Rule Making:** Remote control locomotive (RCL) operations. Rules related to public and employee safety, and the protection of property from damage associated with RCL operations may be adopted. The possible need for amendments to existing commission rules related to RCL operations may also be considered. Docket No. TR-021465.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 80.01.040 General, 80.04.160 Utility, 81.04.-160 Transportation.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Washington State Legislative Board of the Brotherhood of Locomotive Engineers (BLE) petitioned the commission to adopt rules relating to RCL operations. The BLE contends that existing commission rules are inadequate because they do not address RCL safety issues, and that federal safety guidelines are inadequate because they are voluntary. The commission directed this rule making to consider the subjects addressed by the BLE's petition. Rules may improve public and employee safety, and protect property from damage associated with RCL operations.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** RCL operations are regulated, in part, by the FRA. Further, the FRA has promulgated voluntary safety guidelines for RCL operations. The commission will consider whether it is preempted to any degree by federal law from adopting rules and whether federal safety guidelines provide sufficient public protection. FRA staff will be invited to participate in the rule-making process.

**Process for Developing New Rule:** Agency study; and the commission will hold public workshops and request written comments on the topics of the rule making to assist in deciding whether state rules would be lawful, whether state rules are needed, and what language should express any such rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Secretary at Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 South Evergreen Park Drive, S.W., Olympia, WA, 98504-7250 or by phone (360) 664-1160, facsimile (360) 586-2260, or e-mail records@wutc.wa.gov.

Interested persons may file written comments by **February 27, 2003**.

A stakeholder workshop will be held on **Wednesday, March 19, 2003**, in Room 206, at the commission's headquarters beginning at 9:30 a.m. until 4:30 p.m.

Please refer to **Docket No. TR-021465** on all correspondence.

**WRITTEN COMMENTS AND STAKEHOLDER WORKSHOP:** Written comments may be submitted to the commission at the address given above and should be filed with the commis-

sion no later than **Wednesday, February 27, 2003**, for consideration at the **March 19, 2003, stakeholder workshop**.

Electronic copies. The commission requests that comments be provided in electronic format to enhance public access, for ease of providing comments, to reduce the need for paper copies, and to facilitate quotations from the comments. Comments may be submitted by electronic mail to the commission's records center at records@wutc.wa.gov. Please include:

- The docket number of this proceeding (TR-021465).
- The commenting party's name.
- The title and date of the comment or comments.

An alternative method for submitting comments may be by mailing/delivering an electronic copy on a 3 1/2 inch, IBM-formatted, high-density disk, in .pdf Adobe Acrobat format or in Word 97 or later. Include all of the information requested above. The commission will post on the commission's website all comments that are provided in electronic format. The website is located at <http://www.wutc.wa.gov/021465>. If you are unable to file your comments electronically or to submit them on a disk, the commission will always accept a paper document.

Opportunity for further comment is anticipated. Information about the schedule and other aspects of the rule making, including comments, will be posted on the commission's website as it becomes available. If you wish to receive further information on this rule making you may (1) call the commission's records center at (360) 664-1234, (2) e-mail the commission at <records@wutc.wa.gov> or (3) mail written comments to the address above to the attention of Carole J. Washburn, Secretary. When contacting the commission, please refer to Docket No. TR-021465 to ensure that you are placed on the appropriate service list. Questions may be addressed to Mike Rowswell, (360) 664-1265 or e-mail at <mrowswel@wutc.wa.gov>.

**NOTICE:**

**TO CONTINUE RECEIVING NOTICES AND INFORMATION ABOUT THIS RULE MAKING —** The commission wants to ensure its mailings are sent to persons who are interested in the topic and want to receive that information. ANY PERSON WHO COMMENTS will continue to receive notices and information. If you do not submit comments but wish to remain on the mailing list for this rule making, please advise the records center by any one of the following methods: (1) Send a note with your name, address (or a copy of your mailing label), and telephone and fax numbers referencing Docket No. TR-021465, and the words "Please keep me on the mailing list"; or (2) e-mail your name, address, telephone and fax numbers, referencing Docket No. TR-021465, and the words "Please keep me on the mailing list" to <records@wutc.wa.gov>. Please note that all information in the mailings will be accessible through the commission's Internet website at <<http://www.wutc.wa.gov/021465>>. THOSE PARTIES WHO

**DO NOT RESPOND MAY NOT RECEIVE FURTHER MAILINGS  
OR INFORMATION ON THE RULE MAKING.**

January 24, 2003  
Carole J. Washburn  
Secretary

### WSR 03-04-017

#### PREPROPOSAL STATEMENT OF INQUIRY

#### DEPARTMENT OF RETIREMENT SYSTEMS

[Filed January 27, 2003, 9:02 a.m.]

**Subject of Possible Rule Making:** Chapter 415-10 WAC, Purchase of service credit after statutory deadline; actuarial WACs in chapter 415-02 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 41.50.050(5), 41.50.165.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Office of the State Actuary (OSA) has provided the Department of Retirement Systems (DRS) updated factors for the calculation of the lump sum costs of purchasing service credit under RCW 41.50.165 (2), based on a study that OSA undertakes every six years. As a result, DRS will review its WACs in chapters 415-02 and 415-10 WAC, as well as any other WACs that may be identified as part of its review, and will amend, adopt, or repeal rules as needed in regards to the updated factors.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The Office of the State Actuary will be involved in reviewing changes to the WACs described above.

**Process for Developing New Rule:** Department staff will work on the project, with the assistance of the Office of the Attorney General. The public is invited and encouraged to participate, as described below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. The Department of Retirement Systems encourages your active participation in the rule-making process. Anyone interested in participating should contact the rules coordinator, below. After the rule(s) is drafted, DRS will file a copy with the Office of the Code Reviser with a notice of proposed rule making, and send a copy to everyone currently on the mailing list and anyone else who requests a copy. For more information on how to participate, please contact Merry A. Kogut, Rules Coordinator, Department of Retirement Systems, Mailstop 48380, P.O. Box 48380, Olympia, WA 98504-8380, voice (360) 664-7291, TTY (360) 586-5450, e-mail [merryk@drs.wa.gov](mailto:merryk@drs.wa.gov), fax (360) 753-3166.

January 24, 2003  
Merry A. Kogut  
Rules Coordinator

### WSR 03-04-020

#### PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed January 27, 2003, 2:17 p.m.]

**Subject of Possible Rule Making:** WAC 180-82-204 and 180-82A-204, the amendments to these rules would allow individual holding national certification to have the endorsements on their national certificate placed on their Washington teaching certificate.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.410.010.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Would allow individuals who hold national certification to have the same endorsements on their Washington teaching certificate.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

January 23, 2003

Larry Davis  
Executive Director

### WSR 03-04-021

#### PREPROPOSAL STATEMENT OF INQUIRY STATE BOARD OF EDUCATION

[Filed January 27, 2003, 2:19 p.m.]

**Subject of Possible Rule Making:** WAC 180-82A-206 and 180-82A-215, amendments to these rules will simplify and clarify the process used by colleges/universities to have their endorsement programs approved by the State Board of Education.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.410.010.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** See Subject of Possible Rule Making above.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before pub-

lication by sending written comments to Rules Coordinator, State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

January 23, 2003

Larry Davis  
Executive Director

### **WSR 03-04-038**

#### **PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION**

[Filed January 28, 2003, 1:26 p.m.]

**Subject of Possible Rule Making:** The Washington State Parks and Recreation Commission will conduct a review of all of the provisions of chapter 352-40 WAC, Public records, and may determine the need to establish new or amend existing administration rules in this chapter.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 42.17.250, 79A.05.030, and 79A.05.070.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The commission has determined the need to review the entire chapter for accuracy and to ensure compliance with chapter 42.17 RCW. These administrative rules explain the agency records index, the agency process and fees charged for records requested under public disclosure laws. The commission intends to update the chapter to reflect current indexing, provide for greater flexibility in charging for copies of records, present the rules in clear language, and improve the agency responsive to the citizens.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Chapter 42.17 RCW and specifically RCW 42.17.250 specifies that each state agency is to state and publish methods for public inspection and copying of public records. The state Parks and Recreation Commission intends to update this process in accordance with all provisions of chapter 42.17 RCW.

**Process for Developing New Rule:** Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To obtain additional information or to comment on chapter 352-40 WAC, Public records, use the following contact information: Lisa Dunn, Public Records Officer, Washington State Parks, P.O. Box 42650, Olympia, WA 98504-2650, e-mail [lisa.dunn@parks.wa.gov](mailto:lisa.dunn@parks.wa.gov), phone (360) 902-8636, fax (360) 664-0278.

January 28, 2003

Jim French  
Chief of Policy Research

### **WSR 03-04-042**

#### **WITHDRAWAL OF PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH**

[Filed January 28, 2003, 4:15 p.m.]

#### **WITHDRAWAL OF WAC 246-869-260 - WSR 00-03-071**

This memo serves as notice that the department is withdrawing the CR-101 for chapter 246-869 WAC that was filed on January 19, 2000, and published in WSR 00-03-071. The original proposal was to develop a rule pertaining to the distribution of needles and syringes. Since the filing of WSR 00-03-071, the department has determined that rules are not necessary. For this reason the CR-101 for chapter 246-869 WAC is no longer needed.

Individuals requiring information on this rule should contact Lisa Salmi, Health Services Consultant, Board of Pharmacy, at (360) 236-4828.

M. C. Selecky  
Secretary

### **WSR 03-04-043**

#### **PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF HEALTH**

(Board of Optometry)

[Filed January 28, 2003, 4:17 p.m.]

**Subject of Possible Rule Making:** Rules being reviewed include WAC 246-851-160 Credit for reports and 246-851-170 Credit for preprogrammed educational materials. Continuing education rules relating to courses offered electronically and through correspondence courses.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.54.070(2).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Current continuing education rules address approval of correspondence courses available through publications separately from courses offered electronically by an approved school. The maximum number of hours allowed in any two year reporting period is different in each category. Continuing education courses that were previously available only through correspondence courses in magazines are now also available electronically. As a result, existing rules need to be updated to clarify approval of rules available electronically and to review the number of hours available for credit.

A total of forty-five credits can be obtained through WAC 246-851-160 Credit for reports and 246-851-170 Credit for preprogrammed educational materials in a two year reporting period. The board will assess whether the number of credits allowed for these two categories should be reduced.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Judy Haenke, Program Manager, P.O. Box 47870, Olympia, WA 98504-7870, (360) 236-4947, judy.haenke@doh.wa.gov; or at the Board of Optometry Meeting, on March 14, 2003, Holiday Inn, 17336 International Boulevard, Seattle, WA 98158.

Judy Haenke  
Program Manager

**WSR 03-04-044**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF HEALTH**

[Filed January 28, 2003, 4:20 p.m.]

**Subject of Possible Rule Making:** Revision of drinking water operating permits, chapter 246-294 WAC to update the criteria for compliance regarding water system performance and to be consistent with other drinking water regulations, chapters 246-290 and 246-292 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 70.119A RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** This rule provides structure for annually evaluating water system performance based on compliance with chapter 246-290 WAC and public health risk. The division of drinking water will update its criteria for compliance to be consistent with new drinking water regulations that have been adopted since this rule was first enacted.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Collaborative rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. Stakeholders will be involved through the Water Supply Advisory Committee and the Water Utility Council. In addition, the draft rule will be available for comment upon request and made available through the division's homepage on the Internet [www.doh.wa.gov/ehp/dw/default.htm](http://www.doh.wa.gov/ehp/dw/default.htm). For more information contact Theresa Phillips, Program Development Section, Division of Drinking Water, P.O. Box 47822, Olympia, WA 98504-7822, (360) 236-3147.

January 22, 2003  
M. C. Selecky  
Secretary

**WSR 03-04-056**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF LICENSING**

[Filed January 29, 2003, 3:42 p.m.]

**Subject of Possible Rule Making:** Amendment of WAC 308-13-150 Landscape architect fees.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.96.080 Fees; RCW 43.24.086 Fee policy for professions, occupations and businesses; requires fees to be at a sufficient level to defray the cost of administering the program.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The examination vendor for national examinations is the Council of Landscape Architect Registration Boards (CLARB). CLARB will increase their examination fees yearly. This rule is needed to increase the charge that candidates pay for the examination and the department collects on the vendor's behalf. This is a national driven fee increase and not the request of the department.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Agency study; and review of all rules pursuant to the Governor's Executive Order 97-02. Notification by the examination vendor that fees will increase in December 2003. Fees are collected from candidates by the Department of Licensing, held in a pass-through account, and then reimbursed to the exam vendor after the exam has been conducted.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Margaret Epting, Department of Licensing, Business and Professions Division, Landscape Architect Registration Board, P.O. Box 9045, Olympia, WA 98507-9045, (360) 664-1386, fax (360) 664-2551.

January 27, 2003  
Margaret Epting  
Administrator

**WSR 03-04-065**

**PREPROPOSAL STATEMENT OF INQUIRY**  
**GAMBLING COMMISSION**

[Filed January 30, 2003, 5:02 p.m.]

**Subject of Possible Rule Making:** Equipment used in gambling activities.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 9.46.070.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** This proposed amendment gives staff the ability to require testing on equipment used in conjunction with gambling activities. The approval may be in various forms/processes and will depend on the item. Some lab review may be needed vs. just notification to us.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Rick Day, Deputy Director, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3446; or Ed Fleisher, Deputy Director, P.O. Box 42400, Olympia, WA

98504-2400, (360) 486-3449; or Susan Arland, Rules Coordinator, P.O. Box 42400, Olympia, WA 98504-2400, (360) 486-3466.

**Meeting Dates and Locations:** Best Western Aladdin Motor Inn, 900 South Capitol Way, Olympia, WA 98501, (360) 352-7200, on March 13 and 14, 2003; at the Hampton Inn/Foxhall, 3985 Bennett Drive, Bellingham, WA 98225, (360) 676-7700, on April 10 and 11, 2003; and at the Red Lion Hotel, 1225 North Wenatchee Avenue, Wenatchee, WA 98801, (509) 663-0711, on May 8 and 9, 2003.

January 30, 2003

Susan Arland  
Rules Coordinator

### WSR 03-04-073

#### PREPROPOSAL STATEMENT OF INQUIRY BELLEVUE COMMUNITY COLLEGE

[Filed February 3, 2003, 10:13 a.m.]

**Subject of Possible Rule Making:** Complaint procedures of Bellevue Community College.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 34.05 RCW and RCW 28B.50.140.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Bellevue Community College currently has three separate procedures covering different kinds of complaints - discrimination, academic and general. The college is exploring the advisability of combining all three procedures into one document to make them easier to use and administer. The discrimination complaint procedure is already covered under WAC 132H-152-135. If the changes are approved, this WAC would be included within the changes and would be amended.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Elise Erickson, Executive Assistant to the President, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, phone (425) 564-2302, fax (425) 564-2261.

Meetings will be held with different constituent groups impacted by potential changes throughout the year. Contact Mrs. Erickson's office for the precise schedule.

January 31, 2003  
Elise J. Erickson  
Rules Coordinator

### WSR 03-04-074

#### PREPROPOSAL STATEMENT OF INQUIRY BELLEVUE COMMUNITY COLLEGE

[Filed February 3, 2003, 10:14 a.m.]

**Subject of Possible Rule Making:** Parking and traffic procedures of Bellevue Community College.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 34.05 RCW and RCW 28B.50.140.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Traffic and parking procedures at Bellevue Community College are identified in chapter 132H-1169 [116] WAC but they are out of date and no longer conform to current practice. They will be reviewed and discussed with constituents before amendments are made.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bob Spinks, Director Public Safety, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, phone (425) 564-2250, fax (425) 564-5600.

Meetings will be held with different constituent groups impacted by potential changes throughout the year. Contact Mr. Spink's office for the precise schedule.

January 31, 2003  
Elise J. Erickson  
Rules Coordinator

### WSR 03-04-075

#### PREPROPOSAL STATEMENT OF INQUIRY BELLEVUE COMMUNITY COLLEGE

[Filed February 3, 2003, 10:15 a.m.]

**Subject of Possible Rule Making:** Student code of Bellevue Community College.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 34.05 RCW and RCW 28B.50.140.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Bellevue Community College has chapter 132H-120 WAC describing the rights and responsibilities of students at the college. The rules need to be updated to incorporate changing legal issues, mores and responsibilities of students. It is intended that the investigation into the current rules and discussions with students about how to improve them will make them stronger and easier to follow.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Tika Esler, Dean of Student Services, Bellevue Community College, 3000 Landerholm Circle S.E., Bellevue, WA 98007-6484, phone (425) 564-2205, fax (425) 564-4056.

Meetings will be held throughout the academic year. Contact Mrs. Esler's office for the precise schedule.

January 31, 2003  
Elise J. Erickson  
Rules Coordinator

98-70-010 to keep the Cemetery Board's revenues in line with expenditures.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by providing written comments to the Cemetery Board, P.O. Box 9012, Olympia, WA 98507-9012, phone (360) 664-1555, fax (360) 586-4414.

January 31, 2003  
Jon Donnellan  
Administrator

### **WSR 03-04-076**

#### **PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING**

(Board of Funeral Directors and Embalmers)

[Filed February 3, 2003, 10:23 a.m.]

**Subject of Possible Rule Making:** To inform licensees and the public that the board is reviewing its fee structure in view of the statutory requirement contained in RCW 43.24.-086 that the board be self-supporting, and to invite comments about any possible fee changes.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.39.175.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To amend the fees in WAC 308-48-800 to keep the Board of Funeral Directors and Embalmers' revenues in line with expenditures.

Process for Developing New Rule: Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by providing written comments to the Board of Funeral Directors and Embalmers, P.O. Box 9012, Olympia, WA 98507-9012, phone (360) 664-1555, fax (360) 586-4414.

January 31, 2003  
Jon Donnellan  
Administrator

### **WSR 03-04-079**

#### **PREPROPOSAL STATEMENT OF INQUIRY HIGHER EDUCATION COORDINATING BOARD**

[Filed February 3, 2003, 11:38 a.m.]

**Subject of Possible Rule Making:** Chapter 250-61 WAC, Washington State Degree Authorization Act regulations.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapter 28B.85 RCW, Degree-granting Institutions Act.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Higher Education Coordinating Board needs the revisions to the rules pertaining to the Degree-granting Institutions Act to simplify and clarify the regulations, tighten requirements for authorization, update the fee structure and better protect students in the event of an institution's closure.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Agency study; through individual and group meetings over a number of months, the HECB staff has worked to develop the proposed rule changes.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Michael J. Ball, Associate Director, Degree Authorization, Higher Education Coordinating Board, 917 Lakeridge Way S.E., P.O. Box 43430, Olympia, WA 98504-3430, phone (360) 753-7866, e-mail michaelb@hecb.wa.gov.

February 3, 2003  
Michael J. Ball  
Associate Director  
Degree Authorization

### **WSR 03-04-077**

#### **PREPROPOSAL STATEMENT OF INQUIRY DEPARTMENT OF LICENSING**

(Cemetery Board)

[Filed February 3, 2003, 10:24 a.m.]

**Subject of Possible Rule Making:** To inform licensees and the public that the board is reviewing its fee structure in view of the statutory requirement contained in RCW 43.24.-086 that the board be self-supporting, and to invite comments about any possible fee changes.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 68.05.105.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To amend the fees in WAC

**WSR 03-04-080****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF LICENSING**

[Filed February 3, 2003, 12:04 p.m.]

**Subject of Possible Rule Making:** Chapter 308-15 WAC, Geologist licensing services.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 18.220.040.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Amendments are needed to: (1) Allow people who have completed the academic requirements for geologist licensure to take Part I of the national Association of State Boards of Geology (ASBOG) exam. Current rules require that all license requirements (including work experience) be met before taking any part of the exam; (2) clarify that licensees may use embossed and digitally produced stamps as well as rubber stamps; (3) clarify that specialty exams are given twice a year if needed; (4) update chapter to remove obsolete references to the grandparenting period; and (5) make other housekeeping changes.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** There are no other agencies that regulate the licensure of geologists in Washington state.

**Process for Developing New Rule:** The department will send copies of this CR-101 to people on the geologist mailing lists, and will post information on the department's geologist website at <http://www.dol.wa.gov/design/geofront.htm>. Anyone who wishes to participate may comment on the draft amendments, which will be posted on the website, or request a copy from the department.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Leslie Saeger, Program Manager, Geologist Licensing Board, P.O. Box 9045, Olympia, WA 98507-9045, phone (360) 664-1497, TTY (360) 664-8885, e-mail [lsaege@dol.wa.gov](mailto:lsaege@dol.wa.gov).

February 3, 2003  
Margaret Epting  
Administrator

**WSR 03-04-085****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES  
(Medical Assistance Administration)**

[Filed February 3, 2003, 1:40 p.m.]

**Subject of Possible Rule Making:** Medical extension benefits, WAC 388-523-0120.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.08.090.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Delete references to unearned income. The department will use only earned income to establish premiums in the second six months of the medical extension certification period.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below. The department will distribute draft material for an internal and external review process. All comments are taken into consideration before issuance of the final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Joanie Scotson, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1330, e-mail [scotsjk@dshs.wa.gov](mailto:scotsjk@dshs.wa.gov), fax (360) 586-0910, TDD 1-800-848-5429.

January 31, 2003  
Bonita H. Jacques  
for Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**WSR 03-04-086****PREPROPOSAL STATEMENT OF INQUIRY  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

(Medical Assistance Administration)

[Filed February 3, 2003, 1:42 p.m.]

**Subject of Possible Rule Making:** Social Security numbers, WAC 388-476-0005.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.08.090.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Delete reference to the children's health program, which was recently eliminated.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below. The department will distribute draft material for an internal and external review process. All comments will be taken into consideration before issuance of the final rule.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Wendy Forslin, Program Manager, P.O. Box 45534, Olympia, WA 98504-5534, phone (360) 725-1343, e-mail [forslwc@dshs.wa.gov](mailto:forslwc@dshs.wa.gov), fax (360) 586-0910, TDD 1-800-848-5429.

January 31, 2003  
Bonita H. Jacques  
for Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**WSR 03-04-087**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
 (Medical Assistance Administration)  
 [Filed February 3, 2003, 1:43 p.m.]

**Subject of Possible Rule Making:** Amending WAC 388-550-2800, 388-550-4800, and 388-550-6000; new WAC 388-550-5450; new section in chapter 388-531 WAC, Physicians services; and possible new section in chapter 388-546 WAC, Transportation services.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 74.08.090 and 74.09.500.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To encourage providers to participate in the trauma services network. The rules will clarify the conditions under which providers may participate in and receive enhanced payment for providing trauma services to Medical Assistance Administration clients.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** Department of Health.

**Process for Developing New Rule:** The department invites the interested public to review and provide input on the draft language of this rule. Draft material and information about how to participate may be obtained from the department representative listed below.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Kathy Sayre, Rules Program Manager, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1342, e-mail syrek@dshs.wa.gov, fax (360) 586-9727, TDD 1-800-848-5429.

January 31, 2003  
 Bonita H. Jacques  
 for Brian H. Lindgren, Manager  
 Rules and Policies Assistance Unit

**WSR 03-04-091**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PENINSULA COLLEGE**  
 [Filed February 4, 2003, 10:35 a.m.]

**Subject of Possible Rule Making:** Updating Title 132A WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28B.50.140 and chapter 28B.50 RCW.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Peninsula College's WACs need revision to correspond with current policies, practices, and procedures.

**Process for Developing New Rule:** Open discussion, public input.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Bonnie Cauffman, Rules Coordinator, Peninsula College, 1502 East Lauridsen Boulevard, Port

Angeles, WA 98362, phone (360) 417-6212, fax (360) 417-6220.

February 3, 2003  
 Bonnie Cauffman  
 Rules Coordinator

**WSR 03-04-095**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**PUBLIC DISCLOSURE COMMISSION**  
 [Filed February 4, 2003, 1:11 p.m.]

**Subject of Possible Rule Making:** Title 390 WAC, rules relating to redemption of primary election pledges and sponsor identification of broadcast political advertising.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 42.17.370(1).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The Public Disclosure Commission will consider rule amendments to clarify sponsor identification requirements and to update administrative rules consistent with statutory provisions.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** At its meeting on March 25, 2003, the commission is expected to discuss whether to move forward with new and amended rules covering the aforementioned topics. Public comment will be welcome at this meeting.

Interested persons are invited to submit written comments by March 25, 2003, to Doug Ellis, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908. Written comments received by Monday, March 17, 2003, will be provided to commissioners in advance of the meeting.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting the Director of Public Outreach, Doug Ellis, Washington State Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, e-mail dellis@pdc.wa.gov.

A public hearing on these matters may occur on April 25, 2003.

February 4, 2003  
 Susan Harris  
 Assistant Director

**WSR 03-04-097**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
 [Filed February 4, 2003, 1:16 p.m.]

**Subject of Possible Rule Making:** Access to records and trade secrets, standards for commercial driving operations, chapter 296-37 WAC; General occupational health standards, chapter 296-62 WAC; Safety standards for construction

work, chapter 296-155 WAC; Safety standards for fire fighters, chapter 296-305 WAC; and Safety and health core rules, chapter 296-800 WAC.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 49.17.010, [49.17].040, [49.17].050, [49.17].060.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The purpose of this rule making is to make the access to records and trade secret requirements easy to read, understand and more usable for employers. This proposal will move all access to records and trade secret requirements relating to nonagricultural industries from chapter 296-62 WAC, Occupational health standards and place them into a new chapter. The trade secret requirements in chapter 296-62 WAC will remain and apply only to agriculture. The access to records requirements do not apply to the agriculture industry, therefore, they will be repealed from chapter 296-62 WAC. There will be no increase in requirements.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** No other state or federal agencies (other than the Occupational Safety and Health Administration) are known that regulate this subject.

**Process for Developing New Rule:** Parties interested in the development of these rules may contact the individual listed below. The public may also participate by providing written comments or giving oral testimony after these rule changes are proposed during the public hearing process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Christine Swanson, Department of Labor and Industries, WISHA Services Division, P.O. Box 44620, Olympia, WA 98504-44620, phone (360) 902-4568, fax (360) 902-5529, e-mail copc235@lni.wa.gov.

February 4, 2003

Paul Trause  
Director

**WSR 03-04-098**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**

[Filed February 4, 2003, 1:16 p.m.]

**Subject of Possible Rule Making:** Review the current fees that exist in the rules for electrical (chapters 296-46A, 296-401B, and 296-402A WAC), plumber certification (chapter 296-400A WAC), contractor registration (chapter 296-200A WAC), elevators (chapter 296-96 WAC), and factory assembled structures (chapters 296-150C, 296-150F, 296-150M, 296-150P, 296-150R, 296-150T, and 296-150V WAC) for possible increases.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** Chapters 18.27, 18.106, 19.28, 43.22, 70.87 RCW, and chapter 7, Laws of 2001 (ESSB 6153).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** A 3.29% fee increase, which

is the Office of Financial Management's maximum allowable fiscal growth rate factor for fiscal year 2003, may be necessary to help offset inflation and maintain the operational effectiveness of the contractor registration, factory assembled structures, plumber certification, electrical and elevator programs. In addition, elevator inspection fees will be reviewed for possible increases in excess of the fiscal growth factor in response to the passage of the 2001 operating budget (chapter 7, Laws of 2001, ESSB 6153) to ensure the fees fully fund the cost of the elevator program.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** The department is the sole agency charged with setting plumbing, contractor registration, elevator, electrical and factory assembled structures fees.

**Process for Developing New Rule:** The department will solicit input from the director's FAS Advisory Board, the Elevator Safety Advisory Committee, the Plumber's Advisory Board, and the Electrical Board. Other interested parties and the public may also participate by providing written comments or giving oral testimony during the public hearing and comment process.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Josh Swanson, Department of Labor and Industries, Specialty Compliance Services Division, P.O. Box 44400, Olympia, WA 98504-4400, phone (360) 902-6411, fax (360) 902-5292, e-mail swaj235@lni.wa.gov.

February 4, 2003

Paul Trause  
Director

**WSR 03-04-109**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed February 5, 2003, 10:00 a.m.]

**Subject of Possible Rule Making:** WAC 180-79A-150(5) General requirements—Teachers, administrators, educational staff associates, amendments to this rule will describe the documentation an individual needs to provide to verify successful school-based experience in an instructional role with students for the principal's certificate.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.410.010.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** See Subject of Possible Rule Making above.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** None.

**Process for Developing New Rule:** Negotiated rule making; and early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before pub-

lication by sending written comments to Rules Coordinator, State Board of Education, Office of Superintendent of Public Instruction, P.O. Box 47200, Olympia, WA 98504-7200, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

February 4, 2003  
Larry Davis  
Executive Director

**WSR 03-04-110**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed February 5, 2003, 10:01 a.m.]

**Subject of Possible Rule Making:** WAC 180-51-063 Certificate of mastery—High school graduation requirement.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.655.060 (3)(c).

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

**Process for Developing New Rule:** Negotiated rule making; and early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

February 5, 2003  
Larry Davis  
Executive Director

**WSR 03-04-111**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed February 5, 2003, 10:01 a.m.]

**Subject of Possible Rule Making:** WAC 180-55-150 Standards and criteria study and report.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.305.140 and 28A.305.130.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

**Process for Developing New Rule:** Negotiated rule making; and early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

February 5, 2003  
Larry Davis  
Executive Director

**WSR 03-04-112**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**STATE BOARD OF EDUCATION**

[Filed February 5, 2003, 10:02 a.m.]

**Subject of Possible Rule Making:** WAC 180-55-034 Temporary extension of accreditation status.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 28A.305.140 and 28A.305.130.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** To do one or more of the following, as deemed appropriate: Make technical adjustments, clarify existing provisions, repeal unnecessary wording, repeal provisions unsupported by rule-making authority, or provide greater flexibility or discretion to persons or entities subject to the rules.

**Process for Developing New Rule:** Negotiated rule making; and early solicitation of public comments and recommendations respecting new, amended or repealed rules, and consideration of the comments and recommendations in the course of drafting rules.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by sending written comments to Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, TTY (360) 664-3631. For telephone assistance contact Larry Davis at (360) 725-6024.

February 5, 2003  
Larry Davis  
Executive Director

**WSR 03-04-113**  
**PREPROPOSAL STATEMENT OF INQUIRY**  
**DEPARTMENT OF TRANSPORTATION**

[Filed February 5, 2003, 10:43 a.m.]

**Subject of Possible Rule Making:** The current rules do not allow wireless communication sites direct access onto full and partial control limited access highways under any circumstances. The adoption of this rule would provide an immediate avenue for the review and assessment of such

access applications to facilitate the provision of wireless communication services to the public.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 47.52.027.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** Amendment of this WAC will detail department procedures for regulating wireless communication access to limited access state highways.

**Other Federal and State Agencies that Regulate this Subject and the Process Coordinating the Rule with These Agencies:** For the interstate system, FHWA is the regulatory authority. The Washington State Department of Transportation is the regulatory authority for limited access state highways.

**Process for Developing New Rule:** Negotiated rule making.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication by contacting Darlene Sharar, P.O. Box 47329, Olympia, WA 98504-7329, (360) 705-7251. The proposed rule will go through the public hearing process. Interested parties may request a meeting to discuss the various details of the proposed rule.

February 2, 2003

P. J. Hammond  
for John F. Conrad  
Assistant Secretary  
Engineering and Regional

chapter 352-28 WAC, Tree, plant and fungi cutting, removal and/or disposal, use the following contact information: Peter Herzog, Washington State Parks, P.O. Box 42650, Olympia, WA 98504-2650, phone (360) 902-8652, fax (360) 664-0278, e-mail peter.herzog@parks.wa.gov.

February 4, 2003

Jim French

Chief of Policy Research

### WSR 03-04-115

#### PREPROPOSAL STATEMENT OF INQUIRY PARKS AND RECREATION COMMISSION

[Filed February 5, 2003, 11:43 a.m.]

**Subject of Possible Rule Making:** The Washington State Parks and Recreation Commission will conduct a review of all of the provisions of chapter 352-28 WAC, Tree, plant, fungi cutting, removal and/or disposal, and may determine the need to establish new or amend existing administrative rules in this chapter.

**Statutes Authorizing the Agency to Adopt Rules on this Subject:** RCW 79A.05.030, 79A.05.035, 79A.05.070, and 79A.05.305.

**Reasons Why Rules on this Subject may be Needed and What They Might Accomplish:** The commission has determined the need to review this chapter to ensure that it is relevant to new public use and natural resources harvesting practices while remaining sufficient to protect the natural resources of parks. The agency will review recent requests and approvals issued for cutting, removal and sales of applicable natural resources to determine the need for revisions of the appropriate criteria and their applications.

**Process for Developing New Rule:** Agency study.

Interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication. To obtain additional information or to comment on



**WSR 03-03-018****PROPOSED RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed January 7, 2003, 4:14 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 00-15-014.

**Title of Rule:** Chapter 388-78A WAC (entire chapter revision), Boarding home licensing rules.

**Purpose:** The purpose of revising the boarding home licensing rules is to make the rules easier to understand, make them more applicable to the current residents of boarding homes to improve the quality of care and services to residents, make them more consistent with current practices in residential care, make them more focused on what occurs with residents, and to comply with the Governor's Executive Order 97-02.

**Statutory Authority for Adoption:** RCW 18.20.090.

**Statute Being Implemented:** Chapter 18.20 RCW.

**Summary:** The proposed amendments:

- Repeal all existing sections in chapter 388-78A WAC, and replace them with new sections in the same chapter.
- Clarify and strengthen the assessment and care planning requirements for residents in boarding homes.
- Outline the minimum level of support all boarding homes must provide to the residents.
- Clarify and strengthen the nursing, medication and other health care support services available to residents in boarding homes.
- Identify when specialized training for developmental disabilities, mental illness, and dementia is required in boarding homes.
- Improve the requirements for boarding home administrators.
- Revise all sections to make the requirements easier to understand.

**Reasons Supporting Proposal:** See Explanation of Rule below.

**Name of Agency Personnel Responsible for Drafting:** Denny McKee, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2590; **Implementation and Enforcement:** Patricia K. Lashway, P.O. Box 45600, Olympia, WA 98504-5600, (360) 725-2401.

**Name of Proponent:** Department of Social and Health Services, Aging and Disability Services Administration, governmental.

**Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters:** DSHS intends to adopt the proposed rules after March 12, 2003, and make them effective as of September 1, 2003.

Rule is not necessitated by federal law, federal or state court decision.

**Explanation of Rule, its Purpose, and Anticipated Effects:** Chapter 388-78A WAC is being revised to improve the care and services provided to boarding home residents by

clarifying and strengthening the requirements for assessing residents, developing and implementing negotiated care plans, and more clearly outlining the expectations regarding nursing services, medication services, and health care support services in boarding homes. The rules also establish a minimum level of care and service a boarding home must provide, and improve the qualifications of boarding home administrators. The anticipated effects of this rule are the residents will receive more appropriate and individualized care and services in a boarding home.

**Proposal Changes the Following Existing Rules:** The entire licensing chapter 388-78A WAC has been revised to make it easier to understand and strengthen requirements to improve care and services to boarding home residents. The proposed changes include:

- Repealing all existing sections in chapter 388-78A WAC and replacing them with new sections in the same chapter.
- Specifying the characteristics of persons that boarding homes may accept and retain in the boarding home.
- Specifying the outcomes and timing of an initial resident assessment and what topics the assessment must include.
- Specifying the process of developing negotiated care plans for residents, including the timing and content of these agreements.
- Specifying the minimum level of services a boarding home must provide.
- Specifying the requirements for medication assistance and medication administration, and storing and accounting for medications.
- Specifying the requirements associated with providing intermittent nursing services, including coordinating health care services with outside providers.
- Specifying the requirements for implementing negotiated care plans and monitoring residents' well-being.
- Specifying the requirements for hiring and training sufficient staff for the boarding home, including requirements for criminal history background checks and testing for tuberculosis.
- Specifying the qualifications and training requirements for boarding home administrators.
- Specifying the administrative requirements of operating a boarding home, including use of management agreements, development of policies and procedures, infection control practices, and reporting requirements.
- Specifying requirements for disaster preparedness and disclosing available services.
- Specifying the licensee's responsibilities in a boarding home.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

**Small Business Economic Impact Statement**

**SUMMARY OF PROPOSED RULES:** Chapter 388-78A WAC, Boarding homes contains the requirements that boarding homes must meet in order to be licensed in Washington. The statutory authority for chapter 388-78A WAC is RCW 18.20.090. The purpose of chapter 388-78A WAC is to implement chapter 18.20 RCW, as directed by the statute, to

promote the safe and adequate care of individuals in boarding homes receiving domiciliary care, and to promote sanitary, hygienic and safe conditions in boarding homes.

Residential care services (RCS) in Aging and Disability Services Administration (ADSA), Department of Social and Health Services is proposing amendments to chapter 388-78A WAC, Boarding homes.

The purpose of these amendments is to:

- Comply with Governor Locke's Executive Order 97-02 regarding regulatory improvement.
- Make the rules easier to understand.
- Make the rules more applicable to today's boarding home residents.
- Make the rules more consistent with current practices in residential care.
- Make the rules more focused on what occurs with residents ("outcome focused").

The proposed amendments include repealing all existing sections in chapter 388-78A WAC, and replacing them with new sections, and specifying:

- The characteristics of persons boarding homes may accept and retain in the boarding home;
- The conditions under which a person may live in a building before it is licensed as a boarding home;
- The outcomes and timing of an initial resident assessment, who is qualified to perform the assessment, and what topics the assessment must include;
- The process of developing, and the timing and content of negotiated care plans for residents;
- The minimum level of services a boarding home must provide;
- The requirements for medication assistance and medication administration, and storing and accounting for medications;
- The requirements for food services;
- The requirements associated with providing intermittent nursing services, including coordinating health care services with outside providers;
- The requirements for implementing negotiated care plans and monitoring residents' well-being;
- The requirements for providing adult day care and dementia care, and the requirements for operating a unit with restricted egress;
- The requirements associated with documenting resident care, and maintaining records regarding residents' care;
- The requirements for hiring and training sufficient staff for the boarding home, including requirements for criminal history background checks and testing for tuberculosis;
- The training requirements for staff;
- The qualifications and training requirements for boarding home administrators;
- The administrative requirements of operating a boarding home, including use of management agreements, development of policies and procedures, infection control practices, and reporting requirements;
- Resident rights in boarding homes;
- Requirements for disaster preparedness and disclosing available services;

- The requirements for obtaining a boarding home license and the procedures for application;
- The licensee's responsibilities in a boarding home;
- The requirements for the building to be used as a boarding home;
- The rights and responsibilities of the boarding home during the inspection process; and
- The enforcement actions the department may take in response to a boarding home's noncompliance with rules, and the boarding home's appeal rights.

**SMALL BUSINESS ECONOMIC IMPACT STATEMENT:** Chapter 19.85 RCW, The Regulatory Fairness Act, requires that the economic impact of proposed regulations be analyzed in relation to small businesses. Small businesses are defined in this statute as those for-profit businesses that employ fifty or fewer people and are independently owned.

The statute outlines information that must be included in a small business economic impact statement (SBEIS). Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. This chapter impacts all licensed boarding homes in Washington.

Residential care services (RCS) has analyzed the proposed amendments to their rules and has determined that small businesses will be impacted by these changes, and that a comprehensive SBEIS is required.

**INDUSTRY ANALYSIS:** RCS is responsible for licensing boarding homes in Washington and investigating complaints regarding their operation. As part of their monitoring, RCS keeps a current internal database that identifies all licensed boarding homes. Since internal industry information can be obtained at a more accurate level than is required by chapter 19.85 RCW, it is unnecessary to conduct an industry analysis using the four-digit standard industrial classification (SIC) codes.

Residential care services has determined that there are approximately three hundred thirty-three existing boarding homes that meet the criteria for small businesses under RCW 19.85.020.

**INVOLVEMENT OF SMALL BUSINESSES:** Aging and Disability Services Administration began the process of obtaining public input on the development of this rule revision around March 2000 by holding meetings with a wide variety of stakeholders. The initial meetings were designed to identify the general problems that existed in current rules and the major topics that needed to be addressed. As a result of these first discussions, eight different work groups, composed of a variety of stakeholders, were created around the topics of:

- Provision of nursing services and health care supports;
- The process of assessing residents' needs;
- Boarding homes disclosing to the public the services they provide;
- Administrative issues in the boarding home;
- Providing care to persons with dementia;
- Enforcement issues;
- The building and physical environment; and
- Miscellaneous issues including the basic services that should be required in a boarding home.

These eight work groups met a total of fifty-eight times and developed two hundred-six advisory recommendations to ADSA. These advisory recommendations served as recommended general concepts or guiding principles for inclusion in the revision of chapter 388-78A WAC. Further, these recommendations were posted on a publicized web-site with e-mail links to the department for other members of the public to provide input. ADSA management team reviewed each of these recommendations and accepted the vast majority of them. The accepted guiding principles or concepts were then embodied in this proposed rule.

In addition to the multiple meetings of the different advisory work groups, on October 28, 2002, a draft of the revisions to chapter 388-78A WAC was distributed to various stakeholders, including the long-term care ombudsman program (LTCOP) and the three professional associations representing boarding home operators (Northwest Assisted Living Facilities Association - NorALFA; Washington Association of Housing and Services for the Aging - WAHSA; and Washington Health Care/Washington Center for Assisted Living - WHCA/WCAL). At the same time, LTCOP, NorALFA, WAHSA, and WHCA/WCAL were each invited to send three representatives to another meeting on December 4, 2002, to specifically discuss the costs associated with implementing the draft WAC.

The invited participants were asked to:

- Review the draft WAC;
- Identify the requirements in the draft WAC that they perceived to be new requirements beyond current standards; and
- Determine as near as possible the additional costs to the boarding home of implementing/complying with that requirement.

A meeting was held from 9:00 a.m. - 3:30 p.m. on December 4, 2002, and was attended by six provider representatives, one representative from LTCOP, and two staff from ADSA. Additionally, one invited provider who was not

able to attend the meeting submitted comments by fax. Provider representatives were asked to identify what they perceived as new requirements and the associated new costs, and to present them in order, starting with what the provider representatives considered to be the most costly. The department noted all of the new requirements that the provider representatives thought would have "more than minor costs."

It was noted that the costs of complying with a new requirement could have a large variation across the industry because of the unique factors associated with each boarding home. However, as the result of discussion, approximate industry averages were agreed upon by attendees. It was also agreed upon that to the extent possible, the on-going costs associated with complying with the revised rules should be expressed in terms of dollars per resident-day. And it was further agreed upon that the "average" "small business" is best represented by a boarding home licensed for thirty-one beds, and that the "average" "large business" is best represented by a boarding home licensed for eighty-four beds.

The one-time costs associated with achieving compliance are best expressed in cost per licensed bed.

**COST OF COMPLIANCE:** To fairly consider costs of compliance, residential care services has elected to look at costs per licensed bed for the one-time costs associated with achieving compliance with the new rules, and costs per resident-day for on-going expenses associated with maintaining compliance. This is due to these facts:

Boarding homes' revenues are based on the numbers of residents being served in the boarding home. Boarding homes generally prorate expenses over the average number of residents served.

In order to fairly compare expenses between large and small businesses, the cost per resident-day provides a measure of the impact any change would have on each resident.

**GENERAL COSTS:** The one-time costs associated with complying with the requirements of the proposed rule were estimated to be as follows:

Providers' Perceived One-time Costs	ADSA's Analysis for Small Businesses (Average thirty-one beds)	ADSA's Analysis for Large Businesses (Average eighty-four beds)
<ul style="list-style-type: none"> <li>• Cost for revising existing policies and procedures (100 hours @ \$20/hour).</li> </ul>	<ul style="list-style-type: none"> <li>• To the extent that the proposed amended rule reflects a different standard, providers will need to revise their operating policies and procedures.</li> <li>• \$32.26 total per bed in the first year only. (50 hours x \$20/hr/31).</li> </ul>	<ul style="list-style-type: none"> <li>• \$11.09 total per bed in the first year only (50 hours x \$20/hr/84).</li> </ul>
<ul style="list-style-type: none"> <li>• Cost of additional in-service training on revised policies and procedures (4 hours training per direct care employee @ \$12/hr and 8 hours training per professional staff @ \$20/hr).</li> </ul>	<ul style="list-style-type: none"> <li>• To the extent that the proposed amended rule reflects a different standard, providers will need to train their staffs.</li> <li>• Assuming thirteen direct care staff and two professional staff, \$30.45 total per bed in the first year only [(4 x \$12 x 13) + (8 x \$20 x 2)]/31 = \$30.45.</li> </ul>	<ul style="list-style-type: none"> <li>• To the extent that the proposed amended rule reflects a different standard, providers will need to train their staffs.</li> <li>• Assuming twenty-six direct care staff and four professional staff, \$22.48 total per bed in the first year only [(4 x \$12 x 26) + (8 x \$20 x 4)]/84 = \$22.48.</li> </ul>

Providers' Perceived One-time Costs	ADSA's Analysis for Small Businesses (Average thirty-one beds)	ADSA's Analysis for Large Businesses (Average eighty-four beds)
<ul style="list-style-type: none"> <li>Cost of obtaining a social history on current residents with dementia (1 hour @ \$20/hr).</li> </ul>	<ul style="list-style-type: none"> <li>Obtaining a social history for residents with dementia is consistent with current standards of practice in successful boarding homes today, and is consistent with recommendations from work groups regarding the appropriate standards.</li> <li>No additional one-time costs are anticipated for current residents with dementia.</li> </ul>	<ul style="list-style-type: none"> <li>Obtaining a social history for residents with dementia is consistent with current standards of practice in successful boarding homes today, and is consistent with recommendations from work groups regarding the appropriate standards.</li> <li>No additional one-time costs are anticipated for current residents with dementia.</li> </ul>
Total one-time first year costs per bed:	\$62.71 per bed in first year only.	\$33.57 per bed in first year only.

At the meeting on December 4, 2002, the provider representatives identified what they believed to be the new on-going requirements of the draft rules and the associated costs. Aging and Disability Services Administration has analyzed

these costs and associated requirements and has concluded that the on-going new costs imposed by the proposed amendments would be \$.12 per resident-day in both small and large businesses:

Providers' Perceived New Costs	ADSA's Analysis
<ul style="list-style-type: none"> <li>Assessment requirements would cost an additional \$.22 per resident-day because of increased qualifications for assessor and specified elements of assessment (4 hours of additional time per resident per year @ \$20/hr).</li> </ul>	<ul style="list-style-type: none"> <li>Current chapter 388-78A WAC and chapter 70.129 RCW presently require boarding homes to assess residents' needs and the proposed WAC does not create any new assessment requirement. The proposed new WAC only elaborates on existing assessment topics, such as health professional's diagnosis, and safety needs. This elaboration is consistent with current standards of practice in successful boarding homes today, and is consistent with recommendations from work groups regarding the appropriate standards.</li> <li>ADSA has reviewed the information submitted by providers regarding the draft rule that increased the time and qualifications of the person responsible for conducting the initial resident assessment (for needs or services other than nursing care). As a result of this analysis, ADSA has determined the increased costs to be \$.12 per resident day (2.25 hours of additional time per resident per year @ \$20/hr).</li> </ul>
<ul style="list-style-type: none"> <li>The requirements to develop the negotiated care plan would cost an additional \$.24 per resident-day because of specified elements of the negotiated care plan, accommodating resident preferences, and developing plans with residents' families when they are involved in providing care or services to the resident (5 minutes more per resident per week @ \$20/hr).</li> </ul>	<ul style="list-style-type: none"> <li>Current chapter 388-78A WAC and chapter 70.129 RCW require boarding homes to develop an individual's resident plan to address resident needs and accommodate residents' preferences, and the proposed WAC does not create a new requirement.</li> <li>The proposed WAC is consistent with current standards of practice in successful boarding homes today, and is consistent with recommendations from work groups regarding the appropriate standards.</li> <li>Any costs that may be related to changes in requirements for developing negotiated care plans are considered "minor" in amounts.</li> </ul>
<ul style="list-style-type: none"> <li>The requirements to provide a basic level of services in a boarding home would cost between \$3.10 and \$4.65 per resident day in a small business and between \$2.86 and \$4.29 per resident day in a large business (8-12 total additional direct care staff hours per day per 31 beds @ \$12 per hour, and 20-30 total additional direct care staff hours per day per 84 beds @ \$12 per hour).</li> </ul>	<ul style="list-style-type: none"> <li>Current chapter 388-78A WAC and chapter 70.129 RCW require boarding homes to provide the listed services, but do not specify the extent of services. By defining the exact level of services that are expected, in some cases it limits how much services may be required, and in other cases it more clearly describes the extent of services that are expected.</li> <li>No new costs are associated with these clarifying statements.</li> </ul>

Providers' Perceived New Costs	ADSA's Analysis
<ul style="list-style-type: none"> <li>The requirements to provide a higher level of activities in a boarding home would cost between \$3.10 per resident day in a small business and \$2.29 per resident day in a large business (1 additional FTE in a small business @ \$12/hr and 2 additional FTEs in a large business).</li> </ul>	<ul style="list-style-type: none"> <li>ADSA has reviewed the information submitted by providers regarding the draft rule that increased boarding homes' requirements to provide individualized activities daily. As a result of this analysis, ADSA concurs that the costs of this draft requirement outweighs the benefits.</li> <li>Additionally, since this requirement would have disproportionately impacted small businesses, the proposed rule will be changed to reflect existing requirements. The draft requirement to provide individualized activities on a daily basis is being withdrawn.</li> <li>Therefore no new costs will be incurred because the draft requirement is being withdrawn.</li> </ul>
<ul style="list-style-type: none"> <li>The expanded role of the registered nurse will cost more.</li> </ul>	<ul style="list-style-type: none"> <li>The proposed rule and role of the registered nurse is consistent with nursing practice as described in chapter 246-840 WAC. ADSA did not create the requirements regarding the role of the registered nurse and therefore this rule did not create any new requirement or expense.</li> </ul>
<ul style="list-style-type: none"> <li>There are a number of additional requirements that individually are very minor, but in the aggregate would cost @ \$.25 per resident per day.</li> </ul>	<ul style="list-style-type: none"> <li>Other minor requirements not mentioned above are consistent with current standards of practice in successful boarding homes today, and are consistent with recommendations from work groups regarding the appropriate standards.</li> <li>A significant number of these requirements would only impact a fraction of the boarding homes on only an occasional basis, and therefore would not have a significant affect on the industry as a whole.</li> <li>Any costs that may be related to changes in other requirements are considered "minor" in amounts.</li> </ul>
<b>Summary:</b>	<ul style="list-style-type: none"> <li>ADSA has analyzed the costs associated with the on-going requirements of the draft rules and evaluated the probable benefits of them. In response to the boarding home industry's concerns, ADSA has deleted one major requirement from the draft rules: The requirement for individualized activities on a daily basis has been deleted from the proposed rules.</li> <li>New on-going costs associated with the proposed rules are considered to be \$.12 per resident day.</li> </ul>

**Disproportionate Economic Impact Analysis:** When proposed rule changes cause more than minor costs to small businesses, the Regulatory Fairness Act requires an analysis that compares these costs between small businesses and 10% of the largest businesses. The on-going costs of \$.12 per resident day are equal in a large business and a small business.

However, the one-time costs associated with achieving compliance are disproportionate between small businesses and large businesses, since there are fewer licensed beds over which to spread the fixed costs in a small business. In the average small business boarding home, the first year cost of complying with the one-time expenses is estimated to be \$62.71 per licensed bed. In the average large business boarding home, the first year cost of complying with the one-time expenses is estimated to be \$33.57 per licensed bed.

While the estimated time required for boarding homes to achieve compliance may be worth the amounts described above, it is most likely that boarding homes will not have to bear all this expense as an additional expenditure. It is expected that providers will shift some of the costs associated with staff time from other priorities. For example, staff may

be trained on the new policies and procedures at times that were normally scheduled for staff training on other subjects. While there is no debate about the value of staff time, there in fact may not be a significant additional expenditure required for this training.

**Mitigating Expenses:** Residential Care Services has plans for mitigating expenses for small businesses by delaying the effective date of the rules approximately one hundred-twenty days from the date of adoption. It is estimated that the adoption date will be no later than April 30, 2003. Consequently, the effective date for the rules has been set for September 1, 2003. This will allow both small businesses and large businesses to spread the costs of developing policies and presenting training over four months. This will help reduce the likelihood that additional actual expenditures would be required, such as having additional staff provide resident care services while other staff are being trained on new policies.

Additionally, ADSA intends to present several training sessions around the state for providers to help them more quickly understand and implement the new rules. This will

help keep the amount of time necessary to revise or develop new policies and procedures to a minimum.

Finally, ADSA will not impose sanctions for a period of six months after the effective date of the rules, for a boarding home's failure to have written policies and procedures formally written and/or adopted regarding the following areas where new policies and procedures are required by WAC 388-78A-0600, subsection:

- (2)(a) regarding what to do when a resident is not capable of making necessary decisions;
- (2)(b) regarding what to do when a substitute decision maker is no longer appropriate;
- (2)(k)(i) regarding how medications are to be ordered and brought into the boarding home;
- (2)(k)(ii) regarding what to do if a resident's medications are not available;
- (2)(k)(vi) regarding sending medications with a resident when the resident leaves the premises;
- (2)(k)(viii) regarding inventorying schedule II and III drugs;
- (2)(k)(x) regarding the use of medication organizers;
- (2)(k)(xi) regarding what to do if a resident chooses not to take prescribed medications;
- (2)(l) regarding nurse delegation; and
- (2)(n) regarding the safe operation of boarding home vehicles.

ADSA will continue to impose enforcement actions or sanctions for negative outcomes that a resident may experience beginning with the effective date of the rules. ADSA will withhold sanctions for six months only for the limited purposes of having such policies and procedures formally written or adopted by the boarding home. This will allow small businesses to concentrate their time and energies on meeting the requirements of the rule, and will provide an extended period to achieve compliance with the necessary documentation. The broader time frame for compliance will allow boarding home operators to further spread out the costs of complying with this rule.

**CONCLUSION:** Residential care services has given careful consideration to the impact of proposed rules in chapter 388-78A WAC on small businesses. In accordance with the Regulatory Fairness Act, chapter 19.85 RCW, Residential care services has analyzed impacts on small businesses and proposed ways to mitigate those costs associated with the one-time requirements of developing new policies and procedures and training staff on them. Residential care services will delay the effective date of the rules, provide training, and suspend enforcement actions for specific violations for a period of six months following the effective date of the rules.

A copy of the statement may be obtained by writing to Denny McKee, Residential Care Services, ADSA, P.O. Box 45600, Olympia, WA 98504-5600, e-mail mckeed@dshs.wa.gov, phone (360) 725-2590, fax (360) 438-7903.

RCW 34.05.328 applies to this rule adoption. A cost-benefit analysis has been prepared regarding this proposed rule. A copy of the cost-benefit analysis may be obtained by contacting Denny McKee, Residential Care Services, ADSA, P.O. Box 45600, Olympia, WA 98504-5600, e-mail mck-

eedd@dshs.wa.gov, phone (360) 725-2590, fax (360) 438-7903.

Hearing Location: Blake Office Park (behind Goodyear Courtesy Tire), 4500 10th Avenue S.E., Rose Room, Lacey, WA 98503, on March 11, 2003, at 10:00 a.m.

Assistance for Persons with Disabilities: Contact Andy Fernando, DSHS Rules Coordinator, by March 7, 2003, phone (360) 664-6094, TTY (360) 664-6178, e-mail fernaax@dshs.wa.gov.

Submit Written Comments to: Identify WAC Numbers, DSHS Rules Coordinator, Rules and Policies Assistance Unit, P.O. Box 45850, Olympia, WA 98504-5850, fax (360) 664-6185, e-mail fernaax@dshs.wa.gov, by 5:00 p.m., March 11, 2003.

Date of Intended Adoption: Not earlier than March 12, 2003.

December 30, 2002

Bonita H. Jacques

for Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

## Chapter 388-78A WAC

### BOARDING HOME LICENSING RULES

#### GENERAL

##### NEW SECTION

**WAC 388-78A-0010 Purpose.** This chapter is written to implement chapter 18.20 RCW, to promote the safety and well being of boarding home residents, to specify standards for boarding home operators, and to further establish requirements for the operation of boarding homes.

##### NEW SECTION

**WAC 388-78A-0020 Definitions. "Abandonment"** means action or inaction by a person with a duty of care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"**Abuse**" means the willful action or inaction that inflicts injury, unreasonable confinement, intimidation, or punishment on a resident. In instances of abuse of a resident who is unable to express or demonstrate physical harm, pain, or mental anguish, the abuse is presumed to cause physical harm, pain, or mental anguish. Abuse includes sexual abuse, mental abuse, physical abuse, and exploitation of a resident, which have the following meanings:

(1) "**Mental abuse**" means any willful action or inaction of mental or verbal abuse. Mental abuse includes, but is not limited to, coercion, harassment, inappropriately isolating a resident from family, friends, or regular activity, and verbal assault that includes ridiculing, intimidating, yelling, or swearing.

(2) "**Physical abuse**" means the willful action of inflicting bodily injury or physical mistreatment. Physical abuse includes, but is not limited to, striking with or without an

object, slapping, pinching, choking, kicking, shoving, prodding, or the use of chemical restraints or physical restraints.

(3) "**Sexual abuse**" means any form of nonconsensual sexual contact, including but not limited to unwanted or inappropriate touching, rape, sodomy, sexual coercion, sexually explicit photographing, and sexual harassment. Sexual abuse includes any sexual contact between a staff person and a resident, whether or not it is consensual.

(4) "**Exploitation**" means an act of forcing, compelling, or exerting undue influence over a resident causing the resident to act in a way that is inconsistent with relevant past behavior, or causing the resident to perform services for the benefit of another.

(5) "**Financial exploitation**" means the illegal or improper use of the property, income, resources, or trust funds of the resident by any person for any person's profit or advantage.

**"Activities of daily living"** means those tasks related to basic personal care such as bathing, toileting, dressing, grooming, hygiene, ambulation, and eating.

**"Adult day care"** means care and services provided to individuals on the boarding home premises for a period of less than twenty-four continuous hours and does not involve an over-night stay.

**"Aged person"** means, according to RCW 18.20.020, a person of the age of sixty-five years or more, or a person of less than sixty-five years who by reason of infirmity requires domiciliary care.

**"Ambulatory"** means capable of walking or traversing a normal path to safety without the physical assistance of another individual:

(1) "**Nonambulatory**" means unable to walk or traverse a normal path to safety without the physical assistance of another individual;

(2) "**Semi-ambulatory**" means physically and mentally capable of traversing a normal path to safety with the use of mobility aids, but unable to ascend or descend stairs without the physical assistance of another individual.

**"Applicant"** means the person, as defined in this section, that has submitted, or is in the process of submitting, an application for a boarding home license.

**"Bathing fixture"** means a bathtub, shower or sit-down shower.

**"Bathroom"** means a room containing at least one bathing fixture.

**"Board"** means, in the definition of boarding home, the provision of meal service and lodging.

**"Boarding home"** means any home or other institution, however named, which is advertised, announced, or maintained for the express or implied purpose of providing board and domiciliary care to seven or more aged persons not related by blood or marriage to the operator. However, a boarding home that is licensed to provide board and domiciliary care to three to six persons on July 1, 2000, may maintain its boarding home license as long as it is continually licensed as a boarding home. **"Boarding home"** does not include facilities certified as group training homes pursuant to RCW 71A.22.040, nor any home, institution or section thereof

which is otherwise licensed and regulated under the provisions of state law providing specifically for the licensing and regulation of such home, institution or section thereof. Nor shall it include any independent senior housing, independent living units in continuing care retirement communities, or other similar living situations including those subsidized by the department of Housing and Urban Development.

**"Building code"** means the building codes and standards adopted by the Washington State Building Code Council.

**"Construction review services"** means the office of construction review services within the Washington state department of health.

**"Continuing care contract"** means, as stated in RCW 70.38.025, a contract providing a person, for the duration of that person's life or for a term in excess of one year, shelter along with nursing, medical, health-related, or personal care services, which is conditioned upon the transfer of property, the payment of an entrance fee to the provider of such services, or the payment of periodic charges for the care and services involved. A continuing care contract is not excluded from this definition because the contract is mutually terminable or because shelter and services are not provided at the same location.

**"Continuing care retirement community"** means, as stated in RCW 70.38.025, an entity which provides shelter and services under continuing care contracts with its members and which sponsors or includes a health care facility or a health service.

**"Contractor"** means an agency or person who contracts with a licensee to provide resident care, services or equipment.

**"Department"** means the Washington state department of social and health services.

**"Dietitian"** means an individual certified under chapter 18.138 RCW.

**"Document"** means to record, with signature, title, date and time:

(1) Information about medication administration, medication assistance or disposal, a nursing care procedure, accident, occurrence or change in resident condition that may impact the care or needs of a resident; and

(2) Processes, events or activities that are required by law, rule or policy.

**"Domiciliary care"** means:

(1) Assistance with activities of daily living provided by the licensee either directly or by contract; or

(2) Assuming general responsibility for the safety and well-being of the resident; or

(3) Intermittent nursing services, if provided by the licensee.

**"Enforcement remedy"** means one or more of the department's responses to a boarding home's noncompliance with chapter 18.20 RCW and this chapter, authorized by RCW 18.20.190.

**"Exploitation"** - see definition of **"abuse."**

**"Food service worker"** means according to chapter 246-217 WAC an individual who works (or intends to work)

with or without pay in a food service establishment and handles unwrapped or unpackaged food or who may contribute to the transmission of infectious diseases through the nature of his/her contact with food products and/or equipment and facilities. This does not include persons who simply assist residents with meals.

**"Harm"** means a physical or mental or emotional injury or damage to a resident and may include violations of a resident's rights.

**"Infectious"** means capable of causing infection or disease by entrance of organisms into the body, which grow and multiply there, including but not limited to bacteria, viruses, protozoans, and fungi.

**"Independent living unit"** means an apartment, condominium or other self-sufficient dwelling unit occupied by an individual or individuals not receiving domiciliary care.

**"Independent senior housing"** means an independent living unit occupied by an individual or individuals sixty or more years of age.

**"Infirmity"** means a disability that materially limits normal activity without requiring inpatient medical or nursing care. An infirmity may be based on conditions, including but not limited to physical handicap, mental illness, developmental disability, mental confusion, disability or disturbance.

**"Intermittent nursing services"** means the provision of both scheduled and nonscheduled nursing tasks to meet the needs of residents who do not require the frequent presence or frequent evaluation of a registered nurse.

**"Licensee"** means the person, as defined in this chapter, to whom the department issues the boarding home license.

**"Licensed resident bed capacity"** means the resident occupancy level requested by the licensee and approved by the department. All residents receiving domiciliary care and their roommates count towards the licensed resident bed capacity. Adult day care clients do not count towards the licensed resident bed capacity.

**"Manager"** means the person, as defined in this chapter, providing services under a management agreement.

**"Management agreement"** means a written, executed agreement between the licensee and the manager regarding the provision of certain services in a boarding home.

**"Maximum facility capacity"** means the maximum number of individuals that the boarding home may serve at any one time, as determined by the department.

(1) The maximum facility capacity includes all residents and respite care residents and adult day care clients.

(2) The maximum facility capacity is equal to the lesser of:

(a) The sum of the number of approved bed spaces for all resident rooms; or

(b) Twice the seating capacity of the dining area(s) consistent with WAC 388-78A-0270; or

(c) The number of residents permitted by calculating the ratios of toilets, sinks, and bathing fixtures to residents consistent with WAC 388-78A-1010; or

(d) For boarding homes licensed on or before December 31, 1988, the total day room area in square feet divided by ten square feet, consistent with WAC 388-78A-1030; or

(e) For boarding homes licensed after December 31, 1988, the total day room area in square feet divided by twenty square feet, consistent with WAC 388-78A-1030.

**"Medication administration"** means the act of a practitioner, family member, or nursing assistant acting under the delegation of a registered nurse, giving medication to a resident in accordance with the laws and regulations governing such acts and entails:

(1) Comparing the label on the container with the prescriber's order;

(2) Removing an individual dose from a previously dispensed, properly labeled container;

(3) Giving an individual dose to the proper resident; and

(4) Properly recording the medication, dose, and time given in the resident record.

**"Medication assistance"** means assistance with self-administration of medication rendered by a nonpractitioner to a resident of a boarding home in accordance with chapter 246-888 WAC.

**"Medication organizer"** means a container with separate compartments for storing oral medications organized in daily doses.

**"Neglect"** means:

(1) A pattern of conduct or inaction resulting in the failure to provide the goods and services that maintain physical or mental health of a resident, or that fails to avoid or prevent physical or mental harm or pain to a resident; or

(2) An act or omission that demonstrates a serious disregard of consequences of such a magnitude as to constitute a clear and present danger to the resident's health, welfare, or safety.

**"Nonpractitioner"** means any individual who is not a practitioner as defined in WAC 388-78A-0020 and chapter 69.41 RCW.

**"Noteworthy change"** means a change in a resident's physical, emotional, or mental functioning that is a departure from the resident's customary range of functioning, or a recurring condition in a resident's physical, emotional, or mental functioning that has previously required intervention by others.

**"Nurse"** means an individual currently licensed under chapter 18.79 RCW as either a:

(1) **"Licensed practical nurse"** (LPN); or

(2) **"Registered nurse"** (RN).

**"Over-the-counter (OTC) medication"** means any medication that may be legally purchased without a prescriptive order, including but not limited to vitamin, mineral, or herbal preparations.

**"Person"** means any individual, firm, partnership, corporation, company, association, or joint stock association.

**"Physician"** means an individual licensed under chapter 18.57 or 18.71 RCW.

**"Practitioner"** includes a licensed physician, osteopathic physician, podiatric physician, pharmacist, licensed practical nurse, registered nurse, advanced registered nurse practitioner, dentist, and physician assistant. Refer to chapter 69.41 RCW for a complete listing of practitioners.

**"Prescribed medication,"** means any medication (leg-end drug, controlled substance, and over-the-counter) that is prescribed by an authorized practitioner.

**"Prescriber"** means a health care practitioner authorized by Washington state law to prescribe drugs.

**"Problem"** means a violation of any WAC or RCW applicable to the operation of a boarding home:

(1) **"Recurring problem"** means that the department has cited a violation of WAC or RCW and the circumstances of (a) or (b) of this subsection are present:

(a) The department previously imposed an enforcement remedy for a violation of the same section of WAC or RCW for substantially the same problem following any type of inspection within a period of time that represents twice the licensing interval specified in RCW 18.20.110; or

(b) The department previously cited a violation under the same section of WAC or RCW for substantially the same problem following any type of inspection or two occasions within a period of time that represents twice the licensing interval specified in RCW 18.20.110.

(c) When the same WAC or RCW is cited three times within a period of time that represents twice the licensing interval specified in RCW 18.20.110, and there has been a change in licensees between the first and the second or third citation, the third citation may not be considered a **"recurring problem."**

(2) **"Serious problem"** means:

- (a) There has been a violation of a WAC or RCW, and
- (b) Significant actual harm has occurred to a resident, or
- (c) It is likely that death or significant actual harm will occur to a resident.

(3) **"Uncorrected problem"** means the department has cited a violation of WAC or RCW following any type of inspection and the violation remains uncorrected at the time the department makes a subsequent inspection for the specific purpose of verifying whether such violation has been corrected.

**"Prospective resident"** means an individual who demonstrates an interest, intends, or applies to move into a boarding home but has not signed an admission agreement or moved in.

**"RCW"** means Revised Code of Washington.

**"Records"** means:

(1) **"Active records"** means the current, relevant documentation regarding residents necessary to provide care and services to residents; or

(2) **"Inactive records"** means historical documentation regarding the provision of care and services to residents that is no longer relevant to the current delivery of services and has been thinned from the active record.

**"Resident"** means:

(1) An individual who:

(a) Lives in a boarding home, including those receiving respite care;

(b) Is not related by blood or marriage to the operator of the boarding home; and

(c) By reason of age or infirmity, requires domiciliary care.

(2) The roommates of individuals who require domiciliary care.

**"Resident-care staff person"** means any boarding home employee, temporary employee, volunteer, or contractor who provides hands-on personal care or nursing care to a resident, including but not limited to cuing, reminding, or supervision of a resident on behalf of a boarding home, except **"resident-care staff person"** does not include volunteers who are supervised by an employee, temporary employee or contractor who is on the premises and is quickly and easily available to the volunteer while the volunteer is performing volunteer activities.

**"Resident's representative"** means:

(1) An individual legally appointed, or designated by the resident in writing, to act in the resident's behalf; or

(2) If the resident is not competent, an individual authorized to provide informed consent on behalf of the resident consistent with RCW 7.70.065.

**"Respite care"** means short-term care for any period in excess of twenty-four continuous hours for an aged person to temporarily relieve the family or other caregiver of providing that care.

**"Restraint"** means any method or device used to prevent or limit free body movement, including but not limited to:

(1) Confinement, unless agreed to as provided in WAC 388-78A-0380;

(2) **"Chemical restraint"** means a psychopharmacologic drug that is used for discipline or convenience and not required to treat the resident's medical symptoms; and

(3) **"Physical restraint"** means a manual method, obstacle, or physical or mechanical device, material, or equipment attached or adjacent to the resident's body that restricts freedom of movement or access to his or her body, is used for discipline or convenience, and not required to treat the resident's medical symptoms.

**"Room"** means a space set apart by floor to ceiling partitions on all sides with all openings provided with doors or windows.

(1) **"Sleeping room"** means a room where a resident is customarily expected to sleep and contains a resident's bed.

(2) **"Resident living room"** means the common space in a resident unit that is not a sleeping room, bathroom or closet.

**"Significant change"** means a change in a resident's health status or physical, emotional or mental functioning that requires the intervention of a physician, a physician assistant as defined in WAC 246-918-005, or an advanced registered nurse practitioner as defined in WAC 246-840-299.

**"Special needs"** means a developmental disability, mental illness, or dementia.

**"Stable and predictable condition"** means the resident's clinical and behavioral status is known through initial and on-going assessments to be nonfluctuating and consistent, and does not require the frequent presence and frequent evaluation of a registered nurse. As long as the boarding home has the capacity to meet the resident's identified needs, a resident in a stable and predictable condition also includes:

(1) A terminally ill resident, whose deteriorating condition is predictable; and

(2) A resident with an acute, time-limited illness of brief duration.

**"Staff person"** means any boarding home employee, temporary employee, volunteer, or contractor, whether employed or retained by the licensee or any management company.

**"Toilet"** means a disposal apparatus fitted with a seat and flushing device used for urination and defecation.

**"Volunteer"** means an individual who regularly provides planned and organized services within the boarding home without reimbursement, but does not mean an individual who visits residents socially or provides occasional entertainment.

**"Vulnerable adult"** means **"vulnerable adult"** as defined in chapter 74.34 RCW, except that for the purposes of requesting and receiving background checks pursuant to RCW 43.43.832, it shall also include adults of any age who lack the functional, mental, or physical ability to care for themselves.

**"WAC"** means Washington Administrative Code.

**"WISHA"** means the Washington Industrial Safety and Health Act, chapter 49.17 RCW administered by the Washington state department of labor and industries.

#### NEW SECTION

**WAC 388-78A-0030 Applicability.** A person must have a boarding home license issued by the department under chapter 18.20 RCW and this chapter if the person advertises as, or operates, or maintains a facility within Washington state that provides board and domiciliary care as defined in this chapter, except as otherwise exempted by RCW 18.20-170.

#### NEW SECTION

**WAC 388-78A-0040 Other requirements.** (1) The boarding home must comply with all other applicable federal, state, county and municipal statutes, rules, codes and ordinances, including without limitations those that prohibit discrimination.

(2) The boarding home must have its building approved by the Washington State Fire Marshal, Fire Protection Bureau in order to be licensed.

#### NEW SECTION

**WAC 388-78A-0050 Resident characteristics.** The boarding home may accept and retain an individual as a resident in a boarding home only if:

(1) The boarding home can meet the individual's needs;

(2) The individual's health care condition is stable and predictable, as determined jointly by the boarding home and the resident or the resident's representative if appropriate. When the resident requires the services of a licensed nurse on the boarding home premises, the registered nurse responsible for assessing the resident's nursing needs must specifically

assess if the resident's health care condition is stable and predictable;

(3) The individual is ambulatory, unless the boarding home is approved by the Washington State Director of Fire Protection to care for semi-ambulatory or nonambulatory residents; and

(4) The individual meets the acceptance criteria the boarding home described in the boarding home's disclosure information.

#### NEW SECTION

**WAC 388-78A-0060 Individuals in buildings prior to licensing.** A person must ensure all of the following conditions are present if any individual moves into a planned boarding home prior to the department issuing a boarding home license:

(1) The prospective licensee does not represent or advertise the building as a licensed boarding home or other licensed facility;

(2) The prospective licensee does not provide any assistance with activities of daily living to the individuals living in the building whether directly or through a contractor;

(3) The prospective licensee does not provide any nursing services or other health care to individuals living in the building;

(4) The prospective licensee does not assume any responsibility for the safety or well-being of the individuals in the boarding home, other than those associated with customary landlord-tenant relations; and

(5) All of the individuals living in the building are either totally independent, or are able to make arrangements with community resources to meet their service needs without the assistance of the prospective licensee.

#### **ASSESSMENT**

#### NEW SECTION

**WAC 388-78A-0070 Initial assessment.** The boarding home must obtain sufficient information to be able to initially assess each prospective resident and enable staff persons:

(1) To gain a comprehensive understanding of the individual's:

- (a) Needs,
- (b) Capabilities, and
- (c) Preferences.

(2) To determine if the boarding home has the necessary resources, including staff, facilities, and equipment to provide the required care and services; and

(3) To develop a preliminary care plan that adequately addresses the individual's needs, capabilities, and preferences.

#### NEW SECTION

**WAC 388-78A-0080 Timing of initial assessment.** Except in cases of genuine emergency, the boarding home must ensure an initial assessment of the resident is completed

before each prospective resident moves into the boarding home. The boarding home must ensure the initial assessment is completed within three days of the resident moving into the boarding home when the resident moves in under emergency conditions.

#### NEW SECTION

**WAC 388-78A-0090 Qualified assessor.** (1) The boarding home must ensure the person responsible for completing an initial assessment of a prospective resident:

(a) Has a master's degree in social services, human services, behavioral sciences or an allied field and two years social service experience working with adults who have functional or cognitive disabilities; or

(b) Has a bachelor's degree in social services, human services, behavioral sciences, or an allied field and three years social service experience working with adults who have functional or cognitive disabilities; or

(c) Has a valid Washington state license to practice as a registered nurse and three years of clinical nursing experience; or

(d) Is a physician with a valid state license to practice medicine; or

(e) Has three years of successful experience in a licensed boarding home, acquired prior to September 1, 2003, assessing prospective boarding home residents.

(2) The boarding home must ensure a registered nurse is responsible for the assessment of the nursing needs of each prospective resident who requires the services of a nurse while on the boarding home premises.

#### NEW SECTION

**WAC 388-78A-0100 Assessment topics.** The boarding home must obtain sufficient information to be able to assess the capabilities, needs and preferences for each prospective resident in the following areas, consistent with chapter 70.129 RCW:

(1) Individual's recent medical history, including, but not limited to:

(a) Health professional's diagnosis (unless the resident objects for religious reasons);

(b) Chronic, current, and potential skin conditions;

(c) Known allergies to foods, medications, or other considerations for providing care or services.

(2) Currently necessary and contraindicated medications and treatments for the individual, including:

(a) What prescribed medications, and what over-the-counter medications commonly taken by the individual, the individual is able to independently self-administer, or safely and accurately direct others to administer to him/her;

(b) What prescribed medications, and what over-the-counter medications commonly taken by the individual, the individual is able to self-administer when he/she has the assistance of a resident-care staff person; and

(c) What prescribed medications, and what over-the-counter medications commonly taken by the individual, the individual is not able to self-administer, and needs to have administered to him or her.

(3) The individual's nursing needs when the individual requires the services of a nurse on the boarding home premises. The boarding home must ensure a registered nurse is responsible for the nursing assessment of each current and prospective resident who requires a nursing assessment;

(4) Individual's sensory abilities, including:

(a) Vision, and

(b) Hearing.

(5) Individual's communication abilities, including:

(a) Modes of expression,

(b) Ability to make self understood, and

(c) Ability to understand others.

(6) Significant known behaviors or symptoms of the individual causing concern or requiring special care, including:

(a) History of substance abuse.

(b) History of harming self, others, or property or other conditions that may require behavioral intervention strategies.

(c) Individual's ability to leave the boarding home unsupervised; and

(d) Other safety considerations that may pose a danger to the individual or others, such as use of medical devices or the individual's ability to smoke unsupervised, if smoking is permitted in the boarding home.

(7) Individual's special needs, by evaluating available information, or selecting and using an appropriate tool, to determine the presence of symptoms consistent with, and implications for care and services of:

(a) Mental illness, or needs for psychological or mental health services, except where protected by confidentiality laws;

(b) Developmental disability;

(c) Dementia, using the DSHS 13-692; or

(d) Other conditions affecting cognition, such as traumatic brain injury.

(8) Individual's level of personal care needs, including:

(a) Ability to perform activities of daily living;

(b) Medication management ability, including:

(i) The individual's ability to obtain and appropriately use over-the-counter medications; and

(ii) How the individual will obtain prescribed medications for use in the boarding home.

(9) Individual's activities, typical daily routines, habits and service preferences;

(10) Individual's cultural and ethnic identity and lifestyle and the manner in which they are expressed, including preferences regarding other important issues such as food, community contacts, hobbies, spiritual preferences, or other sources of pleasure and comfort; and

(11) Who has decision making authority for the individual, including:

(a) The presence of any advance directive, or other legal document that will establish a substitute decision maker in the future;

(b) The presence of any legal document that establishes a current substitute decision maker; and

(c) The scope of decision-making authority of any substitute decision maker.

NEW SECTION

**WAC 388-78A-0110 On-going assessments.** The boarding home must:

(1) Complete a full re-assessment addressing the elements set forth in WAC 388-78A-0100 for each resident at least annually;

(2) Complete an assessment of identified problems and related issues within a reasonable time, consistent with the resident's condition, following a noteworthy or significant change in each resident's physical, mental, or emotional functioning;

(3) Complete an assessment of identified problems and related issues whenever a resident's negotiated care plan no longer adequately or appropriately addresses the resident's current needs;

(4) Determine the qualifications of the staff person responsible for performing the on-going assessments of current residents in the boarding home;

(5) Ensure the staff person performing the on-going assessments is competent to perform them; and

(6) Ensure a registered nurse is responsible for the assessment or re-assessment of the nursing needs of each current resident who requires the services of a licensed nurse while on the boarding home premises.

NEW SECTION

**WAC 388-78A-0120 Resident participation in assessments.** The boarding home must directly involve each resident or prospective resident, to the extent possible, along with any appropriate resident representative approved by the resident, in the assessment and re-assessment process in the boarding home.

**NEGOTIATED CARE PLAN**NEW SECTION

**WAC 388-78A-0130 Care planning.** The boarding home must:

(1) Develop a preliminary care plan that is a negotiated service agreement, based upon discussions with the resident and the resident's representative if the resident has one, and the assessment of a qualified assessor, before a resident moves into a boarding home;

(2) Integrate the assessment information provided by the department's case manager into the negotiated care plan for each resident whose care is partially or wholly funded by the department;

(3) Develop a negotiated care plan for each resident by reviewing and updating each resident's preliminary negotiated care plan, based upon additional information obtained after the resident moves in, within thirty days of the resident moving in;

(4) Review and update each resident's negotiated care plan as necessary:

(a) Within a reasonable time consistent with the needs of the resident following any noteworthy or significant change

in the resident's physical, mental, or emotional functioning; and

(b) Whenever the negotiated care plan no longer adequately addresses the resident's current assessed needs and preferences.

(5) Review each resident's negotiated care plan following a complete annual re-assessment and update the plan as necessary;

(6) Involve the following persons in the process of developing a negotiated care plan to the extent they are willing and capable:

(a) The resident or prospective resident, to the greatest extent he or she is able to participate;

(b) The resident's representative, if the resident has one;

(c) The resident's family, if desired and approved by the resident;

(d) Other individuals the resident wants included;

(e) Any public or private case manager, if available; and

(f) Boarding home staff.

(7) Ensure:

(a) Individuals participating in developing the resident's negotiated care plan:

(i) Discuss the resident's assessed needs, capabilities, and preferences; and

(ii) Negotiate and agree upon the care and services to be provided to support the resident.

(b) A registered nurse develops the nursing component of the negotiated care plan for any resident who needs licensed nursing services on the boarding home premises; and

(c) Staff persons document in the negotiated care plan the agreed upon plan for services.

NEW SECTION

**WAC 388-78A-0140 Negotiated care plan contents.**

The boarding home must develop, and document in the resident's record, the agreed upon plan to address and support each resident's assessed capabilities, needs and preferences, including the following:

(1) The care and services necessary to meet the resident's needs, including:

(a) The plan to monitor the resident and address interventions for identified risks to the resident's health and safety;

(b) The plan to provide assistance with activities of daily living;

(c) The plan to provide necessary intermittent nursing services, if provided by the boarding home;

(d) The resident's preferences for how services will be provided; and

(e) The plans to accommodate the resident's preferences.

(2) Clearly defined respective roles and responsibilities of the resident, the boarding home staff, and resident's family or other significant persons in meeting the resident's needs and preferences. If a person other than a resident-care staff person is to be responsible for providing care or services to the resident in the boarding home, the boarding home must specify in the negotiated care plan:

(a) The method by which the boarding home will confirm that care or service is provided in a timely manner and as needed by the resident;

(b) How often the boarding home will review the care or services provided by persons other than resident care staff; and

(c) An alternate plan for providing care or service to the resident in the event the necessary services are not provided. The boarding home may develop an alternate plan:

(i) Exclusively for the individual resident, or

(ii) Based on standard policies and procedures in the boarding home.

(3) The times services will be delivered, including frequency and approximate time of day, as appropriate;

(4) The resident's preferences for activities and how those preferences will be supported;

(5) Appropriate behavioral interventions, if needed;

(6) A communication plan, if special communication needs are present; and

(7) The resident's ability to leave the boarding home premises unsupervised.

## NEW SECTION

### **WAC 388-78A-0150 Signing negotiated care plan.**

The boarding home must ensure that the negotiated care plan is agreed to and signed at least annually by:

(1) The resident, or the resident's representative if the resident has one and is unable to sign or chooses not to sign;

(2) A representative of the boarding home duly authorized by the boarding home to sign on its behalf; and

(3) Any public or private case manager for the resident, if available.

## **BOARDING HOME SERVICES**

### **BASIC SERVICES**

## NEW SECTION

### **WAC 388-78A-0160 Basic boarding home services.**

(1) The boarding home must assume general responsibility for each resident and must ensure each resident's:

(a) Health, well-being and safety are maintained and protected;

(b) Rights are protected; and

(c) Dignity and individuality are recognized and respected.

(2) The boarding home must provide to each resident, at a minimum, assistance as needed, with:

(a) **Activities**—Arranging for social, recreational, religious, or other activities in the boarding home and in the community, based on the resident's assessed abilities and preferences and consistent with the resident's negotiated care plan;

(b) **Arranging transportation**—Assisting the resident with arranging transportation to medical appointments, but the boarding home is not required to directly provide transportation;

(c) **Bathing**—Assisting the resident with washing, including supervising the resident who is able to bathe when cued and encouraged, and assisting the resident with difficult tasks such as getting in or out of the tub or washing areas hard to reach, such as the resident's legs, feet, and back;

(d) **Dressing**—Setting up clothes and cuing and monitoring the resident, and providing the physical assistance necessary for the resident to be dressed appropriately;

(e) **Eating**—Cuing, encouraging, and supervising the resident as needed when the resident is eating, and assisting the resident with tasks that are difficult for the resident, such as cutting food or buttering bread;

(f) **Functional aids and equipment**—Assisting the resident in obtaining and maintaining functional aids and equipment, including but not limited to glasses, hearing aids, dentures, canes, crutches, walkers, wheelchairs, and assistive communication devices;

(g) **Housework**—Maintaining safe, clean and comfortable personal living quarters for the resident;

(h) **Laundry**—Keeping the resident's clothing clean and in good repair, and providing on a weekly basis or more often as necessary to maintain cleanliness, clean towels, washcloths, bed sheets and pillow case;

(i) **Locomotion**—Assisting the resident with walking and wheel chair mobility, including cuing, monitoring, and providing standby assistance and the physical assistance necessary to enable residents to take part in services and activities available in the boarding home, and to safely evacuate in emergencies;

(j) **Personal hygiene**—Assisting the resident with care of hair, teeth, dentures, shaving, filing of nails, and other basic personal hygiene and grooming needs, including supervising the resident when the resident is performing the tasks, assisting the resident to care for his/her own appearance, and performing grooming tasks for the resident when the resident is unable to care for his/her own appearance;

(k) **Preparing for necessary health care services**—Cuing and monitoring the resident to follow instructions regarding food, drink, medications, dress and other necessary activities prior to medical or laboratory services;

(l) **Self-administration of medication**—Self-administration (of medications) with assistance as described in chapter 246-888 WAC;

(m) **Self-administration of treatments**—Assisting the resident with self-administration of prescribed treatments to the degree that does not require a licensed professional's intervention;

(n) **Therapeutic diets**—Providing prescribed modified and therapeutic diets and assisting the resident with following them;

(o) **Toilet use**—Assisting the resident with bladder and bowel functions, including guidance when the resident is able to care for his/her own toileting needs, helping the resident to and from the bathroom, assisting the resident with incontinent products, cuing the resident to wash hands, and performing occasional perineal care, but the boarding home is not required to provide continuous or routine perineal care;

(p) **Transferring**—Monitoring and providing one-person standby assistance, guiding and steadying the resident when the resident is able to assist in his/her own transfers including, but not limited to, getting into and out of bed, wheelchair, vehicle, and onto and off of a toilet/commode or shower chair.

(3) The boarding home must have the capacity to deliver the basic boarding home services on a nonscheduled basis, and provide them as needed by residents.

(4) The boarding home must:

(a) Provide care and services to each resident by staff persons who are able to communicate with the resident in a language the resident understands; or

(b) Make provisions for communications between staff persons and residents to ensure an accurate exchange of information.

(5) The boarding home must ensure each resident is able to obtain individually preferred personal care items when:

(a) The preferred personal care items are reasonably available, and

(b) The resident is willing and able to pay for obtaining the preferred items.

(6) The boarding home must ensure that all basic boarding home services as described under this section are appropriately provided to each resident, notwithstanding the agreement of a resident's family member or other persons to perform services on behalf of the resident according to WAC 388-78A-0320.

(7) The boarding home may provide more extensive services than the basic boarding home services, consistent with the boarding home's disclosure statement and WAC 388-78A-0050.

## ACTIVITIES

### NEW SECTION

**WAC 388-78A-0170 Activities.** The boarding home must:

(1) Provide space and staff support necessary for:

(a) Each resident to engage in independent or self-directed activities that are appropriate to the setting, consistent with the resident's assessed interests, functional abilities, preferences, and negotiated care plan; and

(b) Group activities at least three times per week that may be planned and facilitated by resident-care staff persons consistent with the collective interests of a group of residents.

(2) Make available supplies and equipment necessary for activities described in subsection (1) of this section.

## MEDICATIONS

### NEW SECTION

**WAC 388-78A-0180 Medication services.** (1) The boarding home must ensure the following residents receive their medications as prescribed, except as provided for in WAC 388-78A-0200:

(a) Residents who are able to self-administer their own medications when they have the assistance of a resident-care staff person; and

(b) Residents who are unable to self-administer medications and need to have their medications administered to them, if the boarding home provides medication administration services.

(2) The boarding home must provide medication assistance, consistent with applicable statutes and administrative rules, to residents who need and desire this service.

### NEW SECTION

**WAC 388-78A-0190 Prescribed medication authorizations.** (1) The boarding home must have one of the following present in the boarding home before the boarding home may provide medication assistance or medication administration to a resident for prescribed medications:

(a) A prescription label completed by a licensed pharmacy,

(b) A written order from the prescriber,

(c) A facsimile or other electronic transmission of the order from the prescriber, or

(d) Written documentation by a nurse of a telephone order from the prescriber.

(2) The documentation required above in subsection (1) of this section must include the following information:

(a) The name of the resident,

(b) The name of the medication,

(c) The dosage and dosage frequency of the medication, and

(d) The name of the prescriber.

### NEW SECTION

**WAC 388-78A-0200 Medication refusal.** (1) When a resident who is receiving medication assistance or medication administration services chooses to not take his or her medications, the boarding home must:

(a) If there is a staff person available who, acting within his or her scope of practice, is able to evaluate the significance of the resident not getting his or her medication, such staff person must conduct an evaluation and take the appropriate action. Appropriate action includes, but is not limited to notifying the prescriber or primary care practitioner when there is a consistent pattern of the resident choosing to not take his or her medications.

(b) If no such staff person meeting the criteria in (a) of this subsection is available, the boarding home must notify the prescriber or primary care practitioner of the resident not getting his or her medication. The boarding home must ensure staff persons:

(i) Inform the prescriber or primary care practitioner if the staff person is not a nurse, and

(ii) Not exceed his or her scope of practice regarding any directives issued from the prescriber or primary care practitioner in response to the notification.

(2) When a resident who is receiving medication assistance or medication administration services chooses to not take his or her medications, the boarding home must respect

the resident's right to choose to not take the medication and document the time, date and medication the resident did not take.

#### NEW SECTION

##### **WAC 388-78A-0210 Nonavailability of medications.**

(1) When the boarding home has assumed responsibility for obtaining a resident's prescribed medications, the boarding home must obtain them in a correct and timely manner.

(2) When prescribed medications are not available for a resident requiring medication assistance or medication administration services from the boarding home and the responsibility for obtaining the resident's medications remains with the resident, the resident's family or other individual acting on behalf of the resident, the boarding home must:

(a) If there is a staff person available who, acting within his or her scope of practice, is able to evaluate the significance of the resident not getting his or her medication, such staff person must conduct an evaluation and take the appropriate action.

(b) If no such staff person meeting the criteria in (a) of this subsection is available, the boarding home must notify the prescriber or primary care practitioner that the medication is not available for the resident. The boarding home must ensure staff persons:

(i) Inform the prescriber or primary care practitioner if the staff person is not a nurse, and

(ii) Not exceed his or her scope of practice regarding any directives issued from the prescriber or primary care practitioner in response to the notification.

(3) Review and modify as necessary the plan for obtaining the resident's prescribed medications with the resident and those responsible for obtaining the medications on the resident's behalf.

#### NEW SECTION

##### **WAC 388-78A-0220 Alteration of medications.**

(1) The boarding home must provide medications in the form they are prescribed when administering medications or providing medication assistance to a resident, except the boarding home may provide medications in an altered form when:

(a) The resident is unable or unwilling to take the medications in their normal form;

(b) The boarding home has documentation that a practitioner acting within his or her scope of practice has determined that it is safe and appropriate to alter the medication in a specified manner;

(c) The boarding home has informed the resident that the medication is being offered or administered in an altered form before taken by the resident; and

(d) The resident agrees to take the medications in the altered form.

(2) The boarding home must ensure any staff persons who alter medications in the boarding home are acting within their scope of practice and applicable statutes and rules regarding the practice of pharmacy and nursing.

#### NEW SECTION

##### **WAC 388-78A-0230 Storing, securing, and accounting for medications.**

(1) The boarding home must secure medications for residents who are not capable of safely storing their own medications.

(2) The boarding home must ensure all medications under the boarding home's control are properly stored:

(a) In containers with pharmacist-prepared label or original manufacturer's label;

(b) Together for each resident and physically separated from other residents' medications;

(c) Separate from food or toxic chemicals;

(d) In a locked compartment that is accessible only to designated responsible staff persons or appropriate resident; and

(e) In environments recommended on the medication label.

(3) The boarding home must have two staff persons inventory and document no less than once per day, all drugs under the boarding home's control described as schedule II and III drugs in chapter 246-887 WAC.

#### NEW SECTION

##### **WAC 388-78A-0240 Resident controlled medications.**

(1) The boarding home must ensure all medications are stored in a manner that prevents each resident from gaining access to another resident's medications.

(2) The boarding home must allow the following residents, who are capable of responsibly securing their own medications, to control and secure the medications that they self-administer, and the medications they direct others to administer:

(a) Residents who are capable of independently self-administering specific medications of their own; and

(b) Residents who are capable of safely directing others to administer their medications.

#### NEW SECTION

##### **WAC 388-78A-0250 Medication organizers.**

(1) The boarding home must ensure no staff person other than a nurse fills medication organizers for residents. A nurse may fill a medication organizer for a resident only when:

(a) The resident is fully knowledgeable of the medications that have been prescribed for him or her; and

(b) The resident is totally independent with self-administration of medications when using a medication organizer, except for the physical assistance required to fill the medication organizer, or the resident can safely direct others to administer his or her medications; and

(c) Staff persons have no further responsibility for:

(i) Storing the resident's medication; or

(ii) Providing any additional medication assistance to the resident beyond filling the medication organizer; or

(iii) Providing medication administration services to the resident.

(d) The medication organizer carries a label that clearly identifies:

**PROPOSED**

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- (i) The name of the resident,
  - (ii) The name of the medications in the organizer, and
  - (iii) The frequency of the dosage.
- (2) Consistent with subsections (1) and (3) of this section, the boarding home must not use a medication organizer for a resident, filled by anyone other than a licensed pharmacy, any time the boarding home is:
- (a) Involved in the storing the resident's medications;
  - (b) Providing medication assistance to the resident; or
  - (c) Providing medication administration services to the resident.
- (3) Residents may use medication organizers only when they store and secure their own medications and are capable of either:
- (a) Independently self-administering their own medications, or
  - (b) Safely directing others to administer their medications.

#### NEW SECTION

**WAC 388-78A-0260 Family assistance with medication.** (1) If the boarding home allows family assistance with medications and the resident and a family member(s) agree a family member will provide medication assistance or medication administration services to the resident, the boarding home must ensure the following occur before the family assistance is provided:

(a) The boarding home jointly develops a plan for medication assistance with the resident, and the responsible family member(s), and includes a back-up plan in the event the family does not provide the medication services; and

(b) The boarding home clearly delineates and documents in the resident's negotiated care plan, each party's respective responsibilities, including:

(i) How the boarding home will verify the medication services are provided; and

(ii) How often the boarding home will review the assistance provided by the family.

(2) The boarding home must ensure that whenever a resident's family provides medication assistance or medication administration services, the resident's medications remain on the boarding home premises whenever the resident is on the boarding home premises.

#### **FOOD**

#### NEW SECTION

**WAC 388-78A-0270 Food and nutrition services.** (1)

The boarding home must:

(a) Provide a minimum of three meals a day;

(i) At regular intervals;

(ii) With no more than fourteen hours between the evening meal and breakfast, unless the boarding home provides a nutritious snack between the evening meal and breakfast.

(b) Provide sufficient time and staff support for residents to consume meals;

(c) Ensure all menus:

- (i) Are written at least one week in advance and posted where residents can see them, except as specified in (f) of this subsection;
  - (ii) Indicate the date, day of week, month and year;
  - (iii) Include all food and snacks served that contribute to nutritional requirements;
  - (iv) Are retained at least six months;
  - (v) Provide a variety of foods; and
  - (vi) Are not repeated for at least three weeks.
- (d) Prepare on site, or provide through a contract with a food service establishment located in the vicinity and that meets the requirements of chapter 246-215 WAC, palatable, attractively served meals and nourishments that meet the current recommended Dietary Allowances established by the Food and Nutrition Board, National Research Council, adjusted for:
- (i) Age, sex and activities, unless medically contraindicated; and
  - (ii) Individual and ethnic preferences to the extent reasonably possible.
- (e) Substitute foods, when changes in the current day's menu are necessary, of equal nutrient value and record changes on the original menu;
- (f) Make available and known to residents alternate choices in entrees for midday and evening meals that are of comparable quality and nutritional value. The boarding home is not required to post alternate choices in entrees on the menu one week in advance, but must record alternate choices in entrees that are served;
- (g) Develop, make known to residents, and implement a process for residents to express their views and comment on the food services; and
- (h) Maintain a dining area or areas approved by the department with a seating capacity for fifty percent or more of the residents per meal setting, or ten square feet times the licensed resident bed capacity, whichever is greater.
- (2) The boarding home must plan in writing, prepare on site or provide through a contract with a food service establishment located in the vicinity that meets the requirements of chapter 246-215 WAC, and serve as ordered:
- (a) Resident specific, modified or therapeutic diets according to a diet manual, when and as prescribed by a health care practitioner. The boarding home must ensure the diet manual is:
    - (i) Available to and used by staff persons responsible for food preparation,
    - (ii) Approved by a dietitian, and
    - (iii) Reviewed and updated at least every five years.
  - (b) Nutrient concentrates and supplements when prescribed in writing by a health care practitioner.
- (3) The boarding home must manage food, and maintain any on site food service facilities in compliance with chapter 246-215 WAC, Food service sanitation, except the boarding home may:
- (a) Serve home-canned jams, jellies and fruit with a pH of less than 4.6; and
  - (b) In boarding homes licensed for sixteen or fewer beds, use domestic or home-type kitchen appliances, provided that:
    - (i) If a home-type mechanical dishwasher was installed before September 1, 2003, the boarding home must:

(A) Operate it according to manufacturer directions; and  
 (B) Ensure the dishwasher heats the water to 160°F or more.

(ii) If a home-type mechanical dishwasher is installed after September 1, 2003, the boarding home must ensure the dishwasher has:

(A) A high temperature final rinse water at a minimum of 180° F measured by the gauge;

(B) A high temperature final rinse resulting in a minimum of 160° F measured at the surface of the utensil; or

(C) An automatically dispensed approved concentration of chemical sanitizer as described in 21 C.F.R. Part 178.

(4) The boarding home must ensure employees working as food service workers obtain a food worker card according to chapter 246-217 WAC.

(5) The boarding home must ensure a resident obtains a food worker card according to chapter 246-217 WAC whenever:

(a) The resident is routinely or regularly involved in the preparation of food to be served to other residents;

(b) The resident is paid for helping to prepare food; or

(c) The resident is preparing food to be served to other residents as part of an employment-training program.

## **HEALTH CARE SUPPORTS AND INTERMITTENT NURSING SERVICES**

### NEW SECTION

#### **WAC 388-78A-0280 Need to provide intermittent nursing services.** (1) The boarding home must ensure:

(a) Each resident who requires nursing services in the boarding home receives the nursing services as required; or

(b) Residents are transferred to an appropriate setting if necessary nursing services are not provided in the boarding home.

(2) The boarding home must provide intermittent nursing services to provide direct nursing care or coordinate the nursing care with nursing resources external to the boarding home, if any resident receives nursing services on the boarding home premises from:

(a) A nurse employed by the boarding home or acting on the boarding home's behalf; or

(b) A nurse from resources external to the boarding home that has been arranged by the resident or a person acting on behalf of the resident.

(3) The boarding home must provide needed intermittent nursing services consistent with any disclosure statements made to the public.

### NEW SECTION

#### **WAC 388-78A-0290 Tube feeding.** (1) The boarding home must provide intermittent nursing services to develop and implement the nursing component of the negotiated care plan, administer feedings and necessary medications, and provide routine care of the tube insertion site whenever any resident requiring tube feeding is not able to:

(a) Independently and safely manage:

(i) Maintenance of the tube insertion site;  
 (ii) Necessary medication administration through the tube; and

(iii) Feeding administration through the tube; or

(b) Arrange for an outside resource to provide:

(i) Maintenance of the tube insertion site;

(ii) Necessary medication administration through the tube; and

(iii) Feeding administration through the tube.

(2) The boarding home is not required to provide intermittent nursing services to a resident simply because the resident requires tube feeding if the resident can either independently manage or arrange for an outside resource to perform the tasks specified in subsection (1)(a) and (b) of this section.

### NEW SECTION

#### **WAC 388-78A-0300 Supervision of intermittent nursing services.** The boarding home must ensure a registered nurse supervises any intermittent nursing services the boarding home provides. In order to supervise the services, the boarding home may:

(1) Hire a registered nurse on staff;

(2) Contract directly with an individual registered nurse;

or

(3) Contract with an agency, organization or service to provide registered nurse supervision.

### NEW SECTION

#### **WAC 388-78A-0310 Responsibilities of nursing supervisor.** The boarding home must ensure the registered nurse supervising any intermittent nursing services:

(1) Supervises the system of providing nursing services in the boarding home;

(2) Ensures nursing services and nurse delegation are provided consistent with applicable statutes and administrative rules, including, but not limited to:

(a) Chapter 18.79 RCW, Nursing care,

(b) Chapter 18.88A RCW, Nursing assistants,

(c) Chapter 246-840 WAC, Practical and registered nursing,

(d) Chapter 246-841 WAC, Nursing assistants, and

(e) Chapter 246-888 WAC, Medication assistance.

(3) Ensures a registered nurse:

(a) Is responsible for the nursing assessments and reassessments of the nursing needs of current and prospective residents who require licensed nursing services on the boarding home premises;

(b) Develops or amends as necessary the nursing portion of the negotiated care plans for residents who require licensed nursing services on the boarding home premises;

(c) Supervises the implementation of residents' nursing plans;

(d) Coordinates between boarding home staff and outside health resources, the nursing services provided to each resident;

(e) Is available in person, by pager, or by telephone and can respond to residents' needs on the boarding home premises as necessary, consistent with the boarding home's dis-

closure statement regarding the extent of nursing services the boarding home provides.

#### NEW SECTION

**WAC 388-78A-0320 Resident-arranged services.** (1) The boarding home must allow a resident to arrange for on-site care and services, consistent with:

- (a) Title 18 RCW regulating health care professions;
- (b) The boarding home's policies and procedures; and
- (c) The boarding home's disclosure statement.

(2) The boarding home must coordinate resident-arranged health care services consistent with WAC 388-78A-0330.

(3) If a resident arranges for on-site health care services from a community provider, the boarding home must ensure a registered nurse coordinates the resident arranged services with the provision of other services listed in the resident's negotiated care plan.

#### NEW SECTION

**WAC 388-78A-0330 Coordination of health care services.** (1) The boarding home must coordinate services with external health care providers to meet the residents' needs.

(2) The boarding home must develop, implement, and make known to residents the boarding home's policies regarding how the boarding home interacts with external health care providers, including:

- (a) The conditions under which health care information regarding a resident will be shared with external health care providers, consistent with chapter 70.02 RCW;
- (b) How residents' rights to privacy will be protected, including provisions for residents to authorize the release of health care information; and
- (c) How services between the boarding home and external health care providers will be coordinated.

(3) The boarding home may disclose health care information about a resident to external health care providers without the resident's authorization if the conditions in RCW 70.02.050 are met.

(4) If the conditions in RCW 70.02.050 are not met, the boarding home must request, but may not require, a resident to authorize the boarding home and the external health care provider to share the resident's health care information when:

(a) The boarding home becomes aware that a resident is receiving health care services from a source other than the boarding home; and

(b) The resident has not previously authorized the boarding home to release health care information to an external health care provider.

(5) When a resident authorizes the release of health care information or resident authorization is not required under RCW 70.02.050, the boarding home must contact the external health care provider and coordinate services.

(6) When authorizations to release health care information are not obtained, or when an external health care provider is unresponsive to the boarding home's efforts to coordinate services, the boarding home must:

(a) Document the boarding home's actions to coordinate services;

(b) Provide notice to the resident of the risks of not allowing the boarding home to coordinate care with the external provider; and

(c) Address known associated risks in the resident's negotiated care plan.

(7) When coordinating care or services, the boarding home must take appropriate action when there are observable, reported or unanticipated changes in the resident's physical, mental, or emotional functioning that are not adequately addressed by the external health care provider.

### SERVICE DELIVERY AND MONITORING

#### NEW SECTION

**WAC 388-78A-0340 Implementation of negotiated care plan.** The boarding home must provide the care and services as agreed upon in the negotiated care plan to each resident unless a deviation from the negotiated care plan is mutually agreed upon between the boarding home and the resident or the resident's representative at the time the care or services are scheduled.

#### NEW SECTION

**WAC 388-78A-0350 Monitoring residents' well being.** (1) The boarding home must observe each resident consistent with his or her assessed needs and negotiated care plan, and identify any noteworthy changes in the resident's physical, emotional, and mental functioning.

(2) The boarding home must document any noteworthy or significant changes in each resident's physical, emotional, and mental functioning that may warrant a change in the resident's negotiated care plan.

(3) The boarding home must ensure each resident is adequately assessed when the boarding home identifies a noteworthy or significant change in the resident's physical, emotional, and mental functioning that may warrant a change in the resident's negotiated care plan.

(4) The boarding home must take appropriate action in response to each resident's changing assessed needs.

### ADULT DAY CARE

#### NEW SECTION

**WAC 388-78A-0360 Adult day care.** (1) The boarding home may, but is not required to, provide an adult day care program for nonresidents.

(2) If adult day care is provided, the boarding home must ensure:

(a) Each adult day care client receives appropriate supervision, care and needed services during the time spent in the day care program, including:

- (i) Assistance with activities of daily living,
- (ii) Medication assistance,
- (iii) Intermittent nursing care as needed,

(iv) Appropriate meals and prescribed nutritional supplements, and

(v) Activity programs appropriate to clients' needs and preferences.

(b) The care and services provided to adult day care clients do not compromise the care and services provided to boarding home residents; and

(c) The total number of residents plus adult day care clients does not exceed the boarding home's maximum facility capacity;

(d) Only accept adult day care clients who are appropriate for boarding home care and services, consistent with WAC 388-78A-0050;

(e) Provide sufficient furniture for the comfort of day care adults, in addition to furniture provided for residents, including:

(i) Sturdy, comfortable chairs, appropriate for the age and physical condition of the adult day care clients; and

(ii) Napping furniture such as lounge chairs, recliners, or couches, if needed or requested, which are placed three or more feet apart.

(f) Notify appropriate individuals specified in the client's record and consistent with WAC 388-78A-0630 when there is a significant change in the condition of an adult day care client;

(g) Investigate and document incidents and accidents involving adult day care clients consistent with WAC 388-78A-0680;

(h) Maintain a separate register of adult day care clients; and

(i) Maintain a resident record for each adult day care client consistent with record keeping requirements for residents specified in this chapter.

## DEMENTIA CARE

### NEW SECTION

**WAC 388-78A-0370 Dementia care.** (1) The boarding home must, to the fullest extent reasonably possible, obtain for each resident meeting the screening criteria according to WAC 388-78A-0510:

(a) Information regarding the resident's significant life experiences, including:

(i) Parents, step-parents, siblings, and step-siblings;

(ii) Current and former spouses, children, and step-children or other significant relationships;

(iii) Education and training;

(iv) Employment and career experiences;

(v) Religious or spiritual preferences;

(vi) Familiar roles or sources of pride and pleasure.

(b) Information regarding the resident's ability or inability to:

(i) Articulate his or her personal needs; and

(ii) Initiate activity.

(c) Information regarding any patterns of resident behavior that express the resident's needs or concerns that the resident is not able to verbalize. Examples of such behaviors include, but are not limited to:

(i) Agitation;

(ii) Wandering;

(iii) Resistance to care;

(iv) Social isolation; and

(v) Aggression.

(2) The boarding home, in consultation with the resident's family or others familiar with the resident, must evaluate the significance and implications of the information obtained per subsection (1) of this section and integrate appropriate aspects into an individualized negotiated care plan for the resident.

### NEW SECTION

**WAC 388-78A-0380 Restricted egress.** A boarding home must ensure all of the following conditions are present before moving residents into units or buildings with exits that may restrict a resident's egress:

(1) Each resident, or a person authorized under RCW 7.70.065 to provide consent on behalf of the resident, consents to living in such unit or building.

(2) Each resident assessed as being cognitively and physically able to safely leave the boarding home is able to do so without restriction.

(3) Each resident, assessed as being cognitively able to safely leave the boarding home but has physical challenges that make exiting difficult, is able to leave the boarding home when the resident desires and in a manner consistent with the resident's negotiated care plan.

(4) Residents who are assessed as being unsafe to leave the boarding home unescorted are able to leave the boarding home consistent with their negotiated care plans.

(5) Areas from which egress is restricted are equipped throughout with an approved automatic fire detection system and automatic fire sprinkler system electrically interconnected with a fire alarm system that transmits an alarm off site to a twenty-four hour monitoring station.

(6) Installation of special egress control devices in all proposed construction issued a project number by Construction Review Services on or after September 1, 2003 must conform to standards adopted by the state building code council.

(7) Installation of special egress control devices in all construction issued a project number by Construction Review Services prior to September 1, 2003 must conform to the following:

(a) The egress control device must automatically deactivate upon activation of either the sprinkler system or the smoke detection system.

(b) The egress control device must automatically deactivate upon loss of electrical power to any one of the following:

(i) The egress control device itself;

(ii) The smoke detection system; or

(iii) The means of egress illumination.

(c) The egress control device must be capable of being deactivated by a signal from a switch located in an approved location.

(d) An irreversible process which will deactivate the egress control device must be initiated whenever a manual force of not more than fifteen pounds is applied for two seconds to the panic bar or other door-latching hardware. The

**PROPOSED**

egress control device must deactivate within an approved time period not to exceed a total of fifteen seconds. The time delay must not be field adjustable.

(e) Actuation of the panic bar or other door-latching hardware must activate an audible signal at the door.

(f) The unlatching must not require more than one operation. A sign must be provided on the door located above and within twelve inches of the panic bar or other door-latching hardware reading:

"Keep pushing. The door will open in fifteen seconds. Alarm will sound."

Sign letter must be at least one inch in height and must have a stroke of not less than one-eighth inch.

Regardless of the means of deactivation, relocking of the egress control device must be by manual means only at the door.

(8) The boarding home must have a system in place to inform and permit visitors, staff persons and appropriate residents how they can exit without sounding the alarm.

(9) Units or buildings from which egress is restricted are equipped with a secured outdoor space for walking which:

- (a) Is accessible to residents without staff assistance;
- (b) Is surrounded by walls or fences at least seventy-two inches high;
- (c) Has areas protected from direct sunshine and rain throughout the day;
- (d) Has walking surfaces that are firm, stable, slip-resistant and free from abrupt changes and are suitable for individuals using wheelchairs and walkers;
- (e) Has suitable outdoor furniture; and
- (f) Has plants that are not poisonous or toxic to humans.

## RESIDENT RECORDS

### NEW SECTION

**WAC 388-78A-0390 Resident records.** The boarding home must maintain adequate records concerning residents to enable the boarding home:

(1) To effectively provide the care and services agreed upon with the resident; and

(2) To respond appropriately in emergency situations.

### NEW SECTION

**WAC 388-78A-0400 Protection of resident records.** The boarding home must:

(1) Maintain a systematic and secure method of identifying and filing resident records for easy access;

(2) Maintain resident records and preserve their confidentiality in accordance with applicable state and federal statutes and rules, including chapters 70.02 and 70.129 RCW;

(3) Allow authorized representatives of the department and other authorized regulatory agencies access to resident records;

(4) Provide any resident or other individual or organization access to resident records upon written consent of the resident or the resident's representative, unless state or federal law provide for broader access;

(5) Allow authorized agents, such as a management company, to use resident records solely for the purpose of providing care and services to residents, and ensure that agents do not disclose such records except in a manner consistent with law; and

(6) Maintain ownership and control of resident records, except that resident records may be transferred to a subsequent person licensed by the department to operate the boarding home.

### NEW SECTION

**WAC 388-78A-0410 Content of resident records.** The boarding home must maintain in the boarding home relevant current documentation of the following in the active records for each resident:

(1) Resident identifying information, including resident's:

- (a) Name,
  - (b) Birth date,
  - (c) Move-in date, and
  - (d) Sleeping room identification.
- (2) Current name, address, and telephone number of:
- (a) Resident's primary health care provider;
  - (b) Resident's representative, if the resident has one;
  - (c) Individual(s) to contact in case of emergency, illness or death; and

(d) Family members or others, if any, the resident requests to be involved in the development or delivery of services for the resident.

(3) Resident's written acknowledgment of receipt of:

- (a) Required disclosure information prior to moving into the boarding home, and relevant updates; and
  - (b) Long-term care resident rights per RCW 70.129.030.
- (4) The resident's assessment and reassessment information.

(5) Clinical information such as admission weight, height, blood pressure, temperature, blood sugar and other laboratory tests required by the negotiated care plan.

(6) The resident's negotiated care plan, including any orders for medications, treatments, and modified or therapeutic diets.

(7) Provision of medical and nursing services for a resident, including:

(a) A record of providing medication assistance and medication administration, which contains:

- (i) The medication name, dose, and route of administration;
- (ii) The time and date of any medication assistance or administration;
- (iii) The signature or initials of the person providing any medication assistance or administration; and
- (iv) Documentation of a resident choosing to not take his or her medications.

(b) A record of any nursing treatments provided by the boarding home including the signature or initials of the person providing them.

(8) Dates and descriptions of a resident's:

- (a) Accidents,
- (b) Incidents,

(c) Injuries, and

(d) Noteworthy and significant changes in condition.

(9) Staff interventions or responses to subsection (8) of this section, including any modifications made to the resident's negotiated care plan.

(10) Notices of and reasons for relocation as specified in RCW 70.129.110.

(11) The individuals who were notified of a significant change in the resident's condition and the time and date of the notification.

(12) When available, a copy of any legal documents in which:

(a) The resident has appointed another individual to make his or her health care, financial, or other decisions;

(b) The resident has created an advance directive or other legal document that establishes a surrogate decision maker in the future and/or provides directions to health care providers; and

(c) A court has established guardianship on behalf of the resident.

#### NEW SECTION

**WAC 388-78A-0420 Format of resident records.** The boarding home must organize and maintain resident records in a format that the boarding home determines to be useful and functional for the boarding home to effectively provide care and services to each resident.

#### NEW SECTION

**WAC 388-78A-0430 Record retention.** (1) The boarding home must maintain on the boarding home premises in a resident's active record(s) all relevant information and documentation necessary for meeting a resident's current needs.

(2) The boarding home may remove outdated information from the resident's active records that is no longer significant or relevant to the resident's current service and care needs, and maintain it in an inactive record.

(3) The boarding home must maintain all documentation filed in an inactive record pertaining to a resident on the boarding home premises for six months after the date the resident leaves the boarding home and on the boarding home premises or another location for five years after the date the resident leaves the boarding home.

(4) All active and inactive records must be available for review by department staff and other authorized persons.

(5) If a boarding home ceases to operate as a licensed boarding home, the most recent licensee must make arrangements to ensure that the former residents' records are retained according to the times specified in this section and are available for review by department staff and other authorized individuals.

#### NEW SECTION

**WAC 388-78A-0440 Resident review of records.** The boarding home must assemble all records pertaining to a resident and make them available to a resident within twenty-

four hours of the resident's or the resident's representative's request to review the resident's records per RCW 70.129.030.

#### NEW SECTION

**WAC 388-78A-0450 Resident register.** (1) The boarding home must maintain in the boarding home a single current roster of all boarding home residents, their roommates and identification of the rooms in which such persons reside or sleep.

(2) The boarding home must make this roster immediately available to:

(a) Authorized department staff;  
(b) Representatives of the long-term care ombudsman's office; and

(c) Representatives of the Washington State Fire Protection Bureau when conducting fire safety inspections.

(3) The boarding home must maintain a readily available permanent, current book, computer file, or register with entries in ink or typewritten, of all former boarding home residents within the past five years, including:

- (a) Date of moving in;
- (b) Full name;
- (c) Date of birth;
- (d) Date of moving out;
- (e) Reason for moving out; and
- (f) New address if known.

## ADMINISTRATION

#### STAFF

#### NEW SECTION

**WAC 388-78A-0460 Staff.** (1) Each boarding home must provide sufficient, trained staff persons to:

(a) Furnish the services and care needed by each resident consistent with the boarding home's disclosure statements provided according to WAC 388-78A-0690;

(b) Maintain the boarding home free of safety hazards; and

(c) Implement fire and disaster plans.

(2) The boarding home must:

(a) Develop and maintain written job descriptions for the administrator and each staff position and provide each staff person with a copy of his or her job description before or upon the start of employment;

(b) Verify staff persons' work references prior to hiring;

(c) Verify required credentialing is current and in good standing for licensed, certified, and registered staff persons;

(d) Document and retain for twelve weeks, weekly staffing schedules, as planned and worked;

(e) Ensure all resident care and services are provided only by appropriately qualified staff persons;

(f) Ensure at least one resident-care staff person, who is eighteen years of age or older and has current cardiopulmonary resuscitation and first-aid cards, is present and available to assist residents at all times;

(i) When one or more residents are present on the boarding home premises;

- (ii) During boarding home activities off of the boarding home premises; and
- (iii) When staff persons transport a resident.
- (g) Ensure resident-care staff persons provide on site supervision of any resident voluntarily providing services for the boarding home;
- (h) Provide staff orientation and appropriate training for expected duties, including:
  - (i) Organization of boarding home;
  - (ii) Physical boarding home layout;
  - (iii) Specific duties and responsibilities;
- (iv) How to report resident abuse and neglect consistent with chapter 74.34 RCW and boarding home policies and procedures;
- (v) Policies, procedures, and equipment necessary to perform duties;
- (vi) Needs and service preferences identified in the negotiated care plans of residents with whom the resident-care staff persons will be working; and
- (vii) Resident rights, including without limitation, those specified in chapter 70.129 RCW.
- (i) Develop and implement a process to ensure resident care staff persons:
  - (i) Acquire the necessary information from the assessment and negotiated care plan relevant to providing services to each resident with whom the staff person works;
  - (ii) Are informed of changes in the negotiated care plan of each resident with whom the staff person works; and
  - (iii) Are given an opportunity to provide information to responsible staff regarding the resident when assessments and negotiated care plans are updated for each resident with whom the staff person works.
- (j) Ensure all resident-care staff persons have access to resident records relevant to effectively providing care and services to the resident.
- (3) The boarding home must:
  - (a) Ensure that staff persons meet the training requirements specified in chapter 388-112 WAC;
  - (b) Protect all residents by ensuring any staff person suspected or accused of abuse does not have access to any resident until the boarding home investigates and takes action to ensure resident safety to the satisfaction of the department;
  - (c) Not interfere with the investigation of a complaint, coerce a resident or staff person regarding cooperating with a complaint investigation, or conceal or destroy evidence of alleged improprieties occurring within the boarding home;
  - (d) Prohibit staff persons from being directly employed by a resident or a resident's family during the hours the staff person is working for the boarding home;
  - (e) Maintain the following documentation on the boarding home premises, during employment, and at least two years following termination of employment:
    - (i) Staff orientation and training pertinent to duties, including but not limited to:
      - (A) Training required by chapter 388-112 WAC, including as appropriate for each staff person, orientation, basic training or modified basic training, specialty training, nurse delegation core training, and continuing education;
      - (B) Cardiopulmonary resuscitation;
      - (C) First-aid; and

- (D) HIV/AIDS training.
- (ii) Criminal history disclosure and background checks as required in WAC 388-78A-0470; and
- (iii) Verification of contacting work references and professional licensing and certification boards as required by subsection (1) of this section.

(4) The boarding home is not required to keep on the boarding home premises, staff records that are unrelated to staff performance of duties. Such records include, but are not limited to pay records, and health and insurance benefits for staff.

## NEW SECTION

### **WAC 388-78A-0470 Criminal history background checks.** (1) The boarding home must:

(a) Not hire or retain, directly or by contract, any individual having unsupervised access to residents, except as provided in RCW 43.43.842 and subsection (1)(h) of this section, if that individual has been:

- (i) Convicted of a crime against persons as defined in RCW 43.43.830;
- (ii) Convicted of a crime relating to financial exploitation as defined in RCW 43.43.830;
- (iii) Found in any disciplinary board final decision to have abused a vulnerable adult under RCW 43.43.830;
- (vi) The subject in a protective proceeding under chapter 74.34 RCW;
- (v) Convicted of criminal mistreatment; or
- (vi) Found by the department to have abused, neglected, or exploited a vulnerable person in any matter in which an administrative hearing due process right is offered and the finding is upheld through the hearing process or the individual failed to timely appeal the finding.

(b) Inform each individual identified below who is associated with the boarding home and who will have unsupervised access to residents in the boarding home, of the requirement for a criminal history background check:

- (i) Employees,
- (ii) Managers,
- (iii) Volunteers who are not residents,
- (iv) Contractors,
- (v) Students, and
- (vi) Any other nonresident individuals associated with the boarding home having unsupervised access to residents.

(c) Require the individuals identified in subsection (1)(b) of this section to complete and sign a DSHS background authorization form prior to the individual having unsupervised access to residents;

(d) Submit all criminal history background check authorization forms to the department's:

(i) Aging and disability services administration with the initial application for licensure, and

(ii) Background Check Central Unit every two years for each individual identified in subsection (1)(b) of this section. A background check result is only valid for two years from the date it is conducted, at which point a new criminal history background check must be conducted.

(e) Except as provided in subsection (1)(h) of this section, not hire an individual who may have unsupervised

access to residents prior to receiving favorable results of the background check.

(f) Verbally inform the named individual of his/her individual background check results and offer to provide him or her a copy of the background check results within ten days of receipt;

(g) Ensure that all disclosure statements and background check results are:

(i) Maintained on site in a confidential and secure manner;

(ii) Used for employment purposes only;

(iii) Not disclosed to any individual except:

(A) The individual named on the background check result;

(B) Authorized state and federal employees;

(C) The Washington State Patrol auditor; and

(D) As otherwise authorized in chapter 43.43 RCW; and

(iv) Retained and available for department review:

(A) During the individual's employment or association with a facility, and

(B) At least two years following termination of employment or association with a facility.

(h) The boarding home may conditionally employ, contract with, accept as a volunteer or associate, an individual having unsupervised access to residents pending a background inquiry, provided the boarding home:

(i) Obtains a criminal history background check authorization form from the individual prior to the individual beginning to work or perform volunteer activities; and

(ii) Submits the criminal history background check authorization form to the department no later than one business day after the individual started working or volunteer activity.

(2) The department may require the boarding home or any other individual associated with the boarding home who has unsupervised access to residents to complete additional disclosure statements or background inquiries if the department has reason to believe that offenses specified under RCW 43.43.830 have occurred since completion of the previous disclosure statement or background inquiry.

## NEW SECTION

**WAC 388-78A-0480 TB tests.** (1) The boarding home must ensure each staff person is screened for tuberculosis, as follows:

(a) A staff person must have a baseline two-step skin test within three days of being hired unless the staff person meets the requirements in (b) or (c) of this subsection. The skin test must be:

(i) Given no more than one to three weeks apart;

(ii) By intradermal (Mantoux) administration of purified protein derivative (PPD);

(iii) Read in forty-eight to seventy-two hours of administration, by trained personnel; and

(iv) Recorded in millimeters of induration.

(b) A staff person needs to have only a one-step skin test within three days of being hired if:

(i) There is documented history of a negative result from previous two-step testing, or

(ii) There was a documented negative result from one-step skin testing in the previous twelve months.

(c) A staff person does not need to be skin tested for tuberculosis if he/she has:

(i) Documented history of a previous positive skin test consisting of ten or more millimeters of induration; or

(ii) Documented evidence of adequate therapy for active disease; or

(iii) Documented evidence of adequate preventive therapy for infection.

(d) A staff person must have one-step skin test annually unless he/she has a documented history of a previous positive skin test;

(e) If a skin test results in a positive reaction, the boarding home must:

(i) Ensure that the staff person has a chest X-ray within seven days;

(ii) Report positive chest x-rays to the appropriate public health authority; and

(iii) Follow precautions ordered by a physician or public health authority.

(2) The boarding home must:

(a) Retain in the boarding home for the duration of the staff person's employment, and at least two years following termination of employment, records of:

(i) Tuberculin test results,

(ii) Reports of x-ray findings, and

(iii) Physician or public health official orders.

(b) Provide staff persons with a copy of the records specified in (a) of this subsection:

(i) During the time the staff person is employed in the boarding home, limited to one copy per report; and

(ii) When requested by the staff person.

(3) The boarding home must ensure that resident-care staff persons caring for a resident with suspected tuberculosis comply with the WISHA standard for respiratory protection.

## SPECIALIZED TRAINING

### NEW SECTION

**WAC 388-78A-0490 Specialized training for developmental disabilities.** The boarding home must provide resident-care staff persons with specialized training, consistent with chapter 388-112 WAC, to serve residents with developmental disabilities, whenever at least one of the residents in the boarding home is:

(1) A person who meets the eligibility criteria for services defined in chapter 388-825 WAC; or

(2) A person with a severe, chronic disability which is attributable to cerebral palsy or epilepsy, or any other condition, other than mental illness, found to be closely related to mental retardation which results in impairment of general intellectual functioning or adaptive behavior similar to that of a person with mental retardation, and requires treatment or services similar to those required for these persons (i.e., autism), and:

(a) The condition was manifested before the person reached eighteen;

- PROPOSED**
- (b) The condition is likely to continue indefinitely; and
  - (c) The condition results in substantial functional limitations in three or more of the following areas of major life activities:
    - (i) Self-care,
    - (ii) Understanding and use of language,
    - (iii) Learning,
    - (iv) Mobility,
    - (v) Self-direction, and
    - (vi) Capacity for independent living.

#### NEW SECTION

##### **WAC 388-78A-0500 Specialized training for mental illness.**

**illness.** The boarding home must provide resident-care staff persons with specialized training, consistent with chapter 388-112 WAC, to serve residents with mental illness, whenever at least one of the residents in the boarding home is a person who has been diagnosed with or treated for an Axis I or Axis II diagnosis, as described in the *Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition, Text Revision*, and:

- (1) Who has received the diagnosis or treatment within the previous two years; and
- (2) Whose diagnosis was made by, or treatment provided by, one of the following:
  - (a) A licensed physician,
  - (b) A mental health professional,
  - (c) A psychiatric advanced registered nurse practitioner, or
  - (d) A licensed psychologist.

#### NEW SECTION

##### **WAC 388-78A-0510 Specialized training for dementia.** (1) The boarding home must provide resident-care staff persons with specialized training, consistent with chapter 388-112 WAC, to serve residents with dementia, whenever at least one of the residents in the boarding home meets the screening criteria for dementia as outlined on DSHS 13-692.

(2) If the boarding home determines while screening a resident for dementia, that the resident has short-term memory loss, the boarding home must:

- (a) Base the determination upon objective evidence, and
- (b) Document the evidence in the resident's record.

#### **ADMINISTRATOR**

#### NEW SECTION

##### **WAC 388-78A-0520 Administrator qualifications.**

(1) The licensee must appoint an administrator who is at least twenty-one years old and who is not a resident, and is qualified to perform the administrator's duties specified in WAC 388-78A-0560.

(2) The licensee must only appoint as a boarding home administrator an individual who meets at least one of the following qualifications listed in (a) through (f) below:

- (a) The individual was actively employed as a boarding home administrator and met existing qualifications on September 1, 2003;
- (b) The individual holds a current state nursing home administrator license in good standing;
- (c) Prior to assuming duties as a boarding home administrator, the individual has met the qualifications listed in both (i) and (ii) below:
  - (i) Obtained certification of completing administrator training, or certification of passing an administrator examination, from a department-recognized national accreditation health or personal care organization such as:
    - (A) The American Association of Housing and Services for the Aging, or
    - (B) The American Health Care Association, or
    - (C) The Assisted Living Federation of America, or
    - (D) The National Association of Board of Examiners of Long Term Care Administrators.
  - (ii) Three years paid experience:
    - (A) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or
    - (B) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living.
  - (d) The individual holds an associate degree in a related field of study such as health, social work, or business administration and meets the qualifications listed in either (i) or (ii) or (iii) below:
    - (i) Obtains certification of completing administrator training, or certification of passing an administrator examination, within six months of beginning duties as the administrator, from a department-recognized national accreditation health or personal care organization such as:
      - (A) The American Association of Housing and Services for the Aging, or
      - (B) The American Health Care Association, or
      - (C) The Assisted Living Federation of America, or
      - (D) The National Association of Board of Examiners of Long Term Care Administrators.
    - (ii) Has two years paid experience:
      - (A) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or
      - (B) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living.

(iii) Has completed a qualifying administrator training program supervised by a qualified administrator according to WAC 388-78A-0530.

(e) The individual holds a bachelors degree in a related field of study such as health, social work, or business administration and meets the qualifications listed in either (i) or (ii) or (iii) below:

(i) Obtains certification of completing administrator training, or certification of passing an administrator examination, within six months of beginning duties as the administrator, from a department-recognized national accreditation health or personal care organization such as:

(A) The American Association of Housing and Services for the Aging, or

(B) The American Health Care Association, or

(C) The Assisted Living Federation of America, or

(D) The National Association of Board of Examiners of Long Term Care Administrators.

(ii) Has one year paid experience:

(A) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or

(B) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living.

(iii) Has completed a qualifying administrator training program supervised by a qualified administrator according to WAC 388-78A-0530.

(f) Prior to assuming duties as an administrator, the individual has five years of paid experience:

(i) Providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living; and/or

(ii) Managing persons providing direct care to vulnerable adults in a setting licensed by a state agency for the care of vulnerable adults, such as a nursing home, boarding home, or adult family home, or a setting having a contract with a recognized social service agency for the provision of care to vulnerable adults, such as supported living.

#### NEW SECTION

**WAC 388-78A-0530 Qualifying administrator training program.** Before the licensee appoints an individual who must have completed a qualifying administrator training program in order to qualify as a boarding home administrator, the licensee must verify the individual has completed the training and obtain documentation from the individual that the training program met the following requirements:

(1) The department was notified of the beginning date of the administrator training program;

(2) The administrator training program was at least six months in duration following notification of the department;

(3) Only training, supervision, and experience occurring following notification of the department were credited to the qualifying training;

(4) The supervising administrator met the qualifications to be an administrator specified in WAC 388-78A-0520;

(5) The trainee was a full-time employee of a boarding home and spent at least forty percent of his/her time for six months of the training program performing administrative duties customarily assigned to boarding home administrators or included in the job description of the administrator for the boarding home in which the training occurred;

(6) The supervising administrator was present on site at the boarding home during the time the trainee performed administrator duties;

(7) The supervising administrator spent a minimum of one hundred direct contact hours with the trainee during the six months supervising and consulting with the trainee;

(8) Both the trainee and supervising administrator signed documentation of the trainee's qualifying experience and the supervising administrator's performance of required oversight duties; and

(9) The individual completing the qualifying administrator training program maintains the documentation of completing the program.

#### NEW SECTION

**WAC 388-78A-0540 Administrator training requirements.** The licensee must ensure the boarding home administrator:

(1) Meets the training requirements of chapter 388-112 WAC; and

(2) Completes department training of Washington state statutes and administrative rules related to the operation of a boarding home.

(a) The training must include, but is not limited to, an overview of:

(i) Chapter 18.20 RCW, Boarding homes,

(ii) Chapter 43.43 RCW, Criminal history background checks,

(iii) Chapter 74.34 RCW, Abuse of vulnerable adults,

(iv) Chapter 70.129 RCW, Long-term care resident rights,

(v) Chapter 388-78A WAC, and

(vi) Chapter 388-112 WAC, Long-term care services training.

(b) The introduction to the training must be completed within two weeks of assuming duties as a boarding home administrator.

#### NEW SECTION

**WAC 388-78A-0550 Administrator training documentation.** The boarding home must maintain for department review, documentation of the administrator completing:

(1) Training required per chapter 388-112 WAC, Long-term care services training;

(2) Department training in an overview of Washington state statutes and administrative rules related to the operation of a boarding home;

(3) As applicable, certification from a department-recognized national accreditation health or personal care organization; and

(4) As applicable, the qualifying administrator-training program.

#### NEW SECTION

##### **WAC 388-78A-0560 Administrator responsibilities.**

The licensee must ensure the administrator:

(1) Adequately directs and supervises the overall twenty-four-hour-per-day operation of the boarding home;

(2) Ensures residents receive adequate care and services that meet the standards of this chapter;

(3) Is readily accessible to meet with residents;

(4) Complies with the boarding home's policies;

(5) When the administrator is not available on the premises, either:

(a) Is available in person or by telephone or electronic pager, or

(b) Designates a person approved by the licensee to act in place of the administrator. The designee must be:

(i) Qualified by experience to assume designated duties, and

(ii) Authorized to make decisions and direct operations of the boarding home that are necessary during the administrator's absence.

#### NEW SECTION

##### **WAC 388-78A-0570 Notification of change in administrator.**

The licensee must notify the department in writing within ten calendar days of the effective date of a change in the boarding home administrator. The notice must include the full name of the new administrator and the effective date of the change.

#### NEW SECTION

##### **WAC 388-78A-0580 Use of home health/home care.**

If a boarding home licensee also has a home health or home care license, the licensee may not provide care or services to independent individuals living in independent living units on the boarding home premises under the home health or home care license if:

(1) The licensee assumes general responsibility for the safety and well-being of the individual;

(2) The individual requiring such services is not able to receive them in his or her own home and is required to move to another room as a condition for receiving such services;

(3) The individual receiving such services is required to receive them from the licensee as a condition for residing in the building, and is not free to receive such services from any appropriately licensed provider of his or her choice; or

(4) The licensee provides other care or services to the individual, that falls under the jurisdiction of boarding home licensing and this chapter.

#### **MANAGEMENT AGREEMENTS**

#### NEW SECTION

**WAC 388-78A-0590 Management agreements.** (1) If the licensee uses a manager, the licensee must have a written management agreement approved by the department that is consistent with this section.

(2) The licensee may enter into a management agreement only if the management agreement creates a principal/agent relationship between the licensee and the manager.

(3) The licensee must ensure the manager acts in conformance with a department-approved management agreement with the boarding home licensee.

(4) A licensee must not delegate the following to a manager:

(a) The licensee's responsibility to ensure that the boarding home is operated in a manner consistent with all laws and rules applicable to boarding homes;

(b) The licensee's responsibility to review, acknowledge and sign all boarding home initial and renewal license applications.

(5) The licensee must ensure that its manager does not represent itself as, or give the appearance that it is the licensee.

(6) A duly authorized manager may execute resident leases or agreements on behalf of the licensee, but all such resident leases or agreements must be between the licensee and the resident.

(7) The licensee must notify the department of its use of a manager and provide a copy of any written management agreement to the department upon the following:

(a) Initial application for a license;

(b) Retention of a manager following initial application;

(c) Change of managers; or

(d) Modification of existing management agreement.

#### **POLICIES AND PROCEDURES**

#### NEW SECTION

**WAC 388-78A-0600 Policies and procedures.** (1) The boarding home must develop and implement policies and procedures necessary to:

(a) Maintain or enhance the quality of life for residents;

(b) Provide the necessary care and services for residents, including those with special needs; and

(c) Safely operate the boarding home.

(2) The boarding home must develop, implement and train staff persons on policies and procedures to address what staff persons must do:

(a) When there is reason to believe a resident is not capable of making necessary decisions and no substitute decision-maker is available;

(b) When a substitute decision-maker is no longer appropriate because:

(i) The resident's condition has changed; or

(ii) The substitute decision-maker is not acting according to chapters 7.70, 11.88, 11.92, 11.94, or 70.122 RCW, or other applicable statutes or rules.

(c) When a resident stops breathing or a resident's heart appears to stop beating, including the action staff persons must take:

(i) Related to cardio-pulmonary resuscitation (CPR);

(ii) Related to calling 911;

(iii) When a resident has documents related to Emergency Medical Services (EMS) No CPR Guidelines consistent with chapter 43.70 RCW and chapter 246-976 WAC;

(iv) To provide EMS personnel with a copy of the resident's advance directive when the resident has executed an advance directive;

(v) When a resident has a do-not-resuscitate (DNR) order/ directive from a health professional;

(vi) When a resident has a full code directive;

(vii) When a resident has not made known his or her decision or preferences about CPR;

(viii) When a resident is incompetent and not able to make a decision about CPR; and

(ix) When a resident is in a hospice program.

(d) When a resident does not have a personal physician or health care provider;

(e) In response to medical emergencies;

(f) When there are urgent situations in the boarding home requiring additional staff support;

(g) In the event of an internal or external disaster, consistent with WAC 388-78A-0680;

(h) To supervise and monitor residents, including accounting for residents who leave the premises;

(i) To appropriately respond to aggressive or assultive residents, including but not limited to:

(i) Actions to take if a resident becomes violent,

(ii) Actions to take to protect other residents, and

(iii) When and how to seek outside intervention.

(j) To prevent and limit the spread of infections consistent with WAC 388-78A-0610;

(k) To manage residents' medications, consistent with WAC 388-78A-0180 through 388-78A-0260, including:

(i) How medications will be ordered and brought into the boarding home;

(ii) Actions to take if a resident's medications are not available;

(iii) Recording and documenting prescriber's orders;

(iv) Providing and documenting medication assistance;

(v) Providing and documenting medication administration, if this service is provided in the boarding home;

(vi) Sending medications with a resident when the resident leaves the premises;

(vii) Safe and secure storage of medications;

(viii) Inventory of schedule II and III drugs;

(ix) Disposing of discontinued and/or outdated medications;

(x) Use of medication organizers; and

(xi) Actions to take when a resident chooses not to take prescribed medications.

(l) When services related to medications and treatments are provided under the delegation of registered nurse consistent with chapter 246-840 WAC;

(m) Related to food services consistent with chapter 246-215 WAC, including:

(i) Food service sanitation,

(ii) Procuring and storing food,

(iii) Food preparation, and

(iv) Modified diets and nutritional supplements.

(n) Regarding the safe operation of any boarding home vehicles used to transport residents, and the qualifications of the drivers.

(3) The boarding home must make the policies and procedures specified in subsection (2) of this section available to staff persons at all times and residents and residents' representatives upon request.

**Reviser's note:** The spelling error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## NEW SECTION

**WAC 388-78A-0605 Pets.** If a boarding home allows pets to live on the premises, the boarding home must:

(1) Develop and implement policies regarding:

(a) The types of pets that are permitted in the boarding home, and

(b) The conditions under which pets may be in the boarding home.

(2) Ensure animals living on the boarding home premises:

(a) Have regular examinations and immunizations, appropriate for the species, by a veterinarian licensed in Washington state;

(b) Are certified by a veterinarian to be free of diseases transmittable to humans;

(c) Are restricted from:

(i) Central food preparation areas; and

(ii) Residents who object to the presence of pets.

## **INFECTION CONTROL**

### NEW SECTION

**WAC 388-78A-0610 Infection control.** (1) The boarding home must institute appropriate infection control practices in the boarding home to prevent and limit the spread of infections.

(2) The boarding home must:

(a) Develop and implement a system to identify and manage infections;

(b) Restrict a staff person's contact with residents when the staff person has a known communicable disease in the infectious stage that is likely to be spread in the boarding home setting or by casual contact;

(c) Provide staff persons with the necessary supplies, equipment and protective clothing for preventing and controlling the spread of infections;

(d) Provide all resident care and services according to current acceptable standards for infection control;

(e) Perform all housekeeping, cleaning, laundry, and management of infectious waste according to current acceptable standards for infection control;

(f) Report communicable diseases in accordance with the requirements in chapter 246-100 WAC.

## **REPORTING REQUIREMENTS**

**PROPOSED**

### NEW SECTION

#### **WAC 388-78A-0620 Reporting abuse and neglect.**

(1) The boarding home must ensure that each staff person:

(a) Makes a report to the department consistent with chapter 74.34 RCW in all cases where the staff person has reasonable cause to believe that abandonment, abuse, financial exploitation, or neglect of a vulnerable adult has occurred; and

(b) Makes an immediate report to the appropriate law enforcement agency and the department consistent with chapter 74.34 RCW of all incidents of suspected sexual abuse or physical abuse of a resident.

(2) The boarding home must prominently post so it is readily visible to staff, residents and visitors, the department's toll-free telephone number for reporting resident abuse and neglect.

### NEW SECTION

#### **WAC 388-78A-0630 Reporting significant change in a resident's condition.**

(1) The boarding home must consult with the resident's representative, the resident's physician, and other individual(s) designated by the resident as soon as possible whenever:

(a) There is a significant change in the resident's condition;

(b) The resident is relocated to a hospital or other health care facility; or

(c) The resident dies.

(2) The boarding home must notify any agency responsible for paying for the resident's care and services as soon as possible whenever:

(a) The resident is relocated to a hospital or other health care facility; or

(b) The resident dies.

(3) Whenever the conditions in subsections (1) or (2) of this section occur, the boarding home must document in the resident's records:

(a) The date and time each individual was contacted; and

(b) The individual's relationship to the resident.

(4) In case of a resident's death, the boarding home must notify the coroner if required by RCW 68.50.010.

### NEW SECTION

#### **WAC 388-78A-0635 Reporting fires and incidents.**

The boarding home must immediately report to the department's aging and disability services administration:

(1) Any fire in the boarding home;

(2) Any unusual incident having an actual or potential negative impact on residents and that could or did require implementation of the boarding home's disaster plan, including any evacuation of all or part of the residents to another area of the boarding home or to another address; and

(3) Circumstances which threaten the boarding home's ability to ensure continuation of services to residents.

## **RESIDENT RIGHTS**

### NEW SECTION

#### **WAC 388-78A-0640 Resident rights.** The boarding home must:

(1) Comply with chapter 70.129 RCW, Long-term care residents rights;

(2) Ensure all staff persons are knowledgeable of the requirements of chapter 70.129 RCW and provide care and services to each resident consistent with chapter 70.129 RCW;

(3) Not use restraints on any resident;

(4) Promote and protect the residents' exercise of all rights granted under chapter 70.129;

(5) Provide care and services to each resident in compliance with applicable state statutes related to substitute health care decision-making, including chapters 7.70, 70.122, 11.88, 11.92, and 11.94 RCW; and

(6) Reasonably accommodate residents consistent with applicable state and/or federal law.

### NEW SECTION

#### **WAC 388-78A-0650 Services by resident for boarding home.** If a resident performs services for the boarding home, the boarding home must ensure:

(1) The resident freely volunteers to perform the services without coercion or pressure from staff persons;

(2) Resident-care staff persons provide on-site supervision of the resident's performance of any services;

(3) The resident performing services does not supervise, or is not placed in charge of, other residents; and

(4) If the resident regularly performs voluntary services for the benefit of the boarding home, the volunteer activity is addressed in the resident's negotiated care plan.

### NEW SECTION

#### **WAC 388-78A-0660 Boarding home use of audio and video monitoring.** (1) Except as provided for in WAC 388-78A-0670, the boarding home must not use:

(a) Any audio monitoring on the boarding home premises; or

(b) Any audio monitoring used in combination with video monitoring.

(2) The boarding home may video monitor and/or video record activity on the boarding home premises, without an audio component, only in the following areas:

(a) Boarding home entrances and exits if the camera(s) is:

(i) Focused only on the entrance/exit doorways, and

(ii) Not focused on areas where residents may congregate.

(b) Areas used exclusively by staff persons such as, but not limited to, medication storage areas or food preparation areas, if residents do not go into these areas;

(c) Outdoor areas not commonly used by residents, such as, but not limited to, delivery areas; and

(d) Designated smoking areas excluding resident rooms, subject to the following conditions:

(i) When the area is being used by residents assessed as needing supervision for smoking, a staff person must watch the video monitor at any time the area is being used by such residents for smoking;

(ii) The video camera must be placed in a clearly visible area;

(iii) The video monitor must be placed where it cannot be viewed by the general public; and

(iv) All residents in the facility must be notified of the use of the video monitoring.

## NEW SECTION

### **WAC 388-78A-0670 Resident use of electronic monitoring.**

(1) The boarding home must limit the use of resident-initiated video or audio monitoring to the sleeping room or apartment of the resident who requested the monitoring.

(2) If a resident requests video or audio monitoring in his/her sleeping room or apartment, before any monitoring occurs the boarding home must ensure:

(a) Appropriate actions are taken to ensure monitoring is consistent with and does not violate chapter 9.73 RCW;

(b) The resident has identified a threat to his or her safety or health, or the safety of his or her possessions, and has requested electronic monitoring;

(c) The resident's roommate has provided written consent to the monitoring, if the resident has a roommate; and

(d) The resident and the boarding home have agreed upon a specific duration for the use of the monitoring, and the boarding home has documented this.

(3) The boarding home must re-evaluate the need for resident-initiated electronic monitoring with the resident at least quarterly or more often as appropriate.

(4) The boarding home must discontinue the use of resident-initiated electronic monitoring immediately if:

(a) The resident no longer desires it,

(b) The roommate objects to the use, or

(c) The resident becomes unable to give consent.

## **SAFETY AND DISASTER PREPAREDNESS**

## NEW SECTION

### **WAC 388-78A-0680 Safety measures and disaster preparedness.**

(1) The boarding home must ensure each resident is safe whenever the resident is on the boarding home premises or under the supervision of staff persons, consistent with the resident's negotiated care plan.

(2) The boarding home must:

(a) Maintain the premises free of hazards;

(b) Maintain any vehicles used for transporting residents in a safe condition;

(c) Investigate and document investigative actions and findings for any alleged or suspected neglect or abuse or

exploitation, accident or incident jeopardizing or affecting a resident's health or life. The boarding home must:

(i) Determine the circumstances of the event; and

(ii) Institute and document appropriate measures to prevent similar future situations if the alleged incident is substantiated.

(d) Provide appropriate hardware on doors of storage rooms, closets and other rooms to prevent residents from being accidentally locked in;

(e) Provide, and advise staff persons of, a means of emergency access to resident-occupied bedrooms, toilet rooms, bathing rooms, and other rooms;

(f) Provide emergency lighting or flashlights in all areas of the boarding home. For all boarding homes first issued a project number by Construction Review Services on or after September 1, 2003 the boarding home must provide emergency lighting in all areas of the boarding home;

(g) Make sure first-aid supplies are:

(i) Readily available and not locked,

(ii) Clearly marked,

(iii) Able to be moved to the location where needed, and

(iv) Stored in containers that protect them from damage, deterioration, or contamination.

(h) Make sure first-aid supplies are appropriate for:

(i) The size of the boarding home,

(ii) The services provided,

(iii) The residents served, and

(iv) The response time of emergency medical services.

(i) Develop and maintain a current disaster plan describing measures to take in the event of internal or external disasters, including but not limited to:

(i) On-duty staff persons' responsibilities;

(ii) Provisions for summoning emergency assistance;

(iii) Plans for evacuating residents from area or building;

(iv) Alternative resident accommodations;

(v) Provisions for essential resident needs, supplies and equipment including water, food, and medications; and

(vi) Emergency communication plan.

## **DISCLOSURE**

## NEW SECTION

### **WAC 388-78A-0690 Disclosure of services.**

(1) The boarding home must disclose to the public the information required on the department's approved disclosure forms available from the department.

(2) The boarding home must provide services in the boarding home consistent with the information the boarding home disclosed to the public on the department's approved disclosure forms.

(3) The boarding home must notify potential residents of their right to execute a health care directive consistent with chapter 70.122 RCW, before or at the time the individual moves into the boarding home.

PROPOSED

NEW SECTION

**WAC 388-78A-0700 Timing of disclosure.** (1) The boarding home must disclose the information regarding the operation of the boarding home:

(a) In response to a request by a prospective resident or his or her representative for written information about the boarding home's services and capabilities; or

(b) If no such request for written information was previously made by the resident or his or her representative, at the time the boarding home provides an application for residency at the boarding home and with any admission agreements or contracts, if not previously received by the prospective resident.

(2) The boarding home is not required to provide the detailed disclosure of services contained on the department's approved disclosure forms:

(a) In advertisements;

(b) In general marketing information to the public; or

(c) To persons seeking preliminary information regarding residential care resources in the community.

**LICENSING**NEW SECTION

**WAC 388-78A-0710 Licensee qualifications.** The department must consider separately and jointly as applicants each person named in the application for a boarding home license.

(1) If the department finds any person unqualified as specified in WAC 388-78A-1190, the department must deny, terminate, or not renew the license.

(2) If the department finds any person unqualified as specified in WAC 388-78A-1160, the department may deny, terminate, or not renew the license.

NEW SECTION

**WAC 388-78A-0720 Necessary information.** In making a determination whether to issue a boarding home license, the department may review the following information for each person named in the application:

(1) Information in the application; and

(2) Other documents and information the department deems relevant, including inspection and complaint investigation findings for each facility with which the applicant or any partner, officer, director, managerial employee, or owner of five percent or more of the entity applicant has been affiliated.

NEW SECTION

**WAC 388-78A-0730 Application process.** To apply for a boarding home license, a person must:

(1) Submit to the department a complete license application on forms designated by the department at least ninety days prior to the proposed effective date of the license;

(2) Submit all relevant attachments specified in the application;

(3) Submit criminal history background requests as required in WAC 388-78A-0470;

(4) Sign the application;

(5) Submit the license fee as specified in WAC 388-78A-1240;

(6) Submit verification that construction plans have been approved by construction review services;

(7) Submit a revised application before the license is issued if any information has changed since the initial license application was submitted;

(8) Submit a revised application containing current information about the proposed licensee or any other persons or entities named in the application, if a license application is pending for more than one year; and

(9) If the licensee's agent prepares an application on the licensee's behalf, the licensee must review, sign and attest to the accuracy of the information contained in the application.

NEW SECTION

**WAC 388-78A-0740 Requirements to change boarding home licensee.** In order to change the licensee of a boarding home, the licensee must:

(1) Ensure the person who wants to become the new licensee:

(a) Submits a completed license application on forms designated by the department, at least ninety days prior to the proposed effective date of a change in the licensee;

(b) Signs the application;

(c) Submits the annual license fee, if a licensing fee is due;

(d) Submits evidence of control of the real estate on which the boarding home is located, such as a purchase and sales agreement, lease contract, or other appropriate document;

(e) Submits a revised application if any information included on the original application is no longer accurate; and

(f) Completes and submits a revised application if requested by the department.

(2) Notify the department and all residents of the proposed change in licensee at least sixty days prior to the proposed date of transfer, including the following information;

(a) Name of the present licensee and prospective licensee;

(b) Name and address of the boarding home being transferred;

(c) Date of proposed transfer; and

(d) If the boarding home contracts with the department or other public agencies that may make payments for residential care on behalf of residents, the anticipated effect the change of licensee will have on residents whose care and services are supported through these contracts.

(3) Send a letter to the department stating the licensee's intent to relinquish the boarding home license on the effective date of change in licensee.

NEW SECTION

**WAC 388-78A-0750 Annual renewal.** To renew a boarding home license, the boarding home must:

(1) Submit a completed license renewal application on forms designated by the department, at least thirty days prior to the license expiration date;

(2) Sign the application;

(3) Submit the annual renewal license fee as specified in WAC 388-78A-1240; and

(4) If the licensee's agent prepares a renewal application on the licensee's behalf, the licensee must review, sign and attest to the accuracy of the information contained on the renewal application.

## NEW SECTION

### **WAC 388-78A-0760 Licensee's responsibilities.**

(1) The boarding home licensee is responsible for:

(a) The operation of the boarding home;

(b) Complying with the requirements of this chapter, chapter 18.20 RCW, and other applicable laws and rules; and

(c) The care and services provided to the boarding home residents.

(2) The licensee must:

(a) Maintain the occupancy level at or below the licensed resident bed capacity of the boarding home;

(b) Maintain and post in a size and format that is easily read, in a conspicuous place on the boarding home premises:

(i) A current boarding home license,

(ii) The name, address and telephone number of:

(A) The department,

(B) The local legal services program,

(C) Appropriate resident advocacy groups, and

(D) State and local long-term care ombudsman with a brief description of ombudsman services.

(iii) A copy of the report and plan of correction of the most recent full inspection conducted by the department;

(c) Ensure any party responsible for holding or managing residents' personal funds is bonded, or obtains insurance in sufficient amounts, to specifically cover losses of resident funds; and provides proof of bond or insurance to the department.

(3) The licensee must not delegate to any person responsibilities that are so extensive that the licensee is relieved of responsibility for the daily operations and provisions of services in the boarding home.

(4) The licensee must act in accord with any department-approved management agreement, if the licensee has entered into a management agreement.

(5) The licensee must appoint the boarding home administrator consistent with WAC 388-78A-0520.

## NEW SECTION

### **WAC 388-78A-0770 Change in licensee.**

(1) The licensee of a boarding home must change whenever the following events occur, including, but not limited to:

(a) The licensee's form of legal organization is changed (e.g., a sole proprietor forms a partnership or corporation);

(b) The licensee transfers ownership of the boarding home business enterprise to another party regardless of whether ownership of some or all of the real property and/or

personal property assets of the boarding home is also transferred;

(c) The licensee dissolves, or consolidates or merges with another legal organization and the licensee's legal organization does not survive;

(d) If, during any continuous twenty-four-month period, fifty percent or more of the "licensed entity" is transferred, whether by a single transaction or multiple transactions, to:

(i) A different party (e.g., new or former shareholders), or

(ii) A person that had less than a five percent ownership interest in the boarding home at the time of the first transaction; or

(e) Any other event or combination of events that results in a substitution, elimination, or withdrawal of the licensee's control of the boarding home. "Control" as used in this section means the possession, directly or indirectly, of the power to direct the management, operation and/or policies of the licensee or boarding home, whether through ownership, voting control, by agreement, by contract or otherwise.

(2) The licensee is not required to change when the following, without more, occur:

(a) The licensee contracts with a party to manage the boarding home enterprise as the licensee's agent pursuant to an agreement as specified in WAC 388-78A-0590; or

(b) The real property or personal property assets of the boarding home are sold or leased, or a lease of the real property or personal property assets is terminated, as long as there is not a substitution or substitution of control of the licensee or boarding home.

## NEW SECTION

### **WAC 388-78A-0780 Changes in licensed bed capacity.**

To change the licensed bed capacity in a boarding home, the boarding home must:

(1) Submit a completed request for approval to the department at least thirty days before the intended change;

(2) Submit the prorated fee required according to WAC 388-78A-1240; and

(3) Obtain an amended license indicating the new bed capacity.

## NEW SECTION

### **WAC 388-78A-0790 Criteria for increasing licensed bed capacity.**

Before the licensed bed capacity in a boarding home may be increased, the boarding home must:

(1) Obtain construction review services' review and approval of the additional rooms or beds, and related auxiliary spaces, if not previously reviewed and approved; and

(2) Ensure the increased licensed bed capacity does not exceed the maximum facility capacity as determined by the department.

## NEW SECTION

### **WAC 388-78A-0800 Building requirements.**

To get a building approved for licensing, a person must:

- (1) Design plans according to the building code, local codes and ordinances, and this chapter;
- (2) Submit construction documents, including any change orders and addenda to:
- Construction review services per WAC 388-78A-0830, and
  - Local county or municipal building departments per local codes to obtain necessary building permits.
  - Conform to the approved construction documents during construction in accordance with chapter 18.20 RCW;
  - Obtain written approval from construction review services prior to deviating from approved construction documents;
  - Provide construction review services with a:
    - Written notice of completion date,
    - Copy of reduced floor plan(s), and
    - Copy of certificate of occupancy issued by the local building department.  - Obtain authorization from department prior to providing domiciliary care in the new construction area.

#### NEW SECTION

**WAC 388-78A-0810 Conversion of licensed nursing homes.** (1) If a person intends to convert a licensed nursing home building into a licensed boarding home, the building must meet all boarding home licensing requirements specified in this chapter and chapter 18.20 RCW unless the licensee has a contract with the department to provide enhanced adult residential care services in the boarding home per RCW 18.20.220.

(2) If the licensee provides contracted Enhanced Adult Residential Care services in the building converted from a licensed nursing home into a licensed boarding home, the boarding home licensing requirements for the physical structure are considered to be met if the most recent nursing home inspection report for the nursing home building demonstrates compliance, and compliance is maintained, with safety standards and fire regulations:

- As required by RCW 18.51.140; and
- Specified in the applicable building code, as required by RCW 18.51.145, including any waivers that may have been granted, except that the licensee must ensure the building meets the licensed boarding home standards, or their functional equivalency, for:

  - Resident to bathing fixture ratio required per WAC 388-78A-1010,
  - Resident to toilet ratio required per WAC 388-78A-1010,
  - Corridor call system required per WAC 388-78A-0910,
  - Resident room door closures, and
  - Resident room windows required per WAC 388-78A-0990.

(3) If the licensee does not continue to provide contracted enhanced adult residential care services in the boarding home converted from a licensed nursing home, the licensee must meet all boarding home licensing requirements specified in this chapter and chapter 18.20 RCW.

#### NEW SECTION

**WAC 388-78A-0820 Licenses for multiple buildings.**

- The licensee may have multiple buildings operating under a single boarding home license if:
  - All of the buildings are located on the same property with the same legal description; or
  - All of the buildings are located on contiguous properties undivided by:
    - Public streets, not including alleyways used primarily for delivery services or parking, or
    - Other land that is not owned and maintained by the owners of the property on which the boarding home is located.
  - The licensee must have separate boarding homes licenses for buildings that are not located on the same or contiguous properties.
  - Buildings that construction review services reviewed only as an addition to, or a remodel of, an existing boarding home must not have separate boarding home licenses.

#### NEW SECTION

**WAC 388-78A-0830 Required reviews of building plans.** (1) A person or boarding home must notify construction review services of all planned construction regarding boarding homes prior to beginning work on any of the following:

- A new building to be used as a boarding home or part of a boarding home;
  - An addition of, or modification or alteration to an existing boarding home, including but not limited to, the boarding home's:
    - Physical structure;
    - Electrical fixtures or systems;
    - Mechanical equipment or systems;
    - Plumbing fixtures or systems;
    - Fire alarm fixtures or systems;
    - Fire sprinkler fixtures or systems; and
    - Kitchen or laundry equipment.
  - A change in the department approved use of an existing boarding home or portion of a boarding home; and
  - An existing building or portion thereof to be converted for use as a boarding home.
- (2) A person or boarding home does not need to notify construction review services of the following:
- Repair or maintenance of equipment, furnishings or fixtures;
  - Replacement of equipment, furnishings or fixtures with equivalent equipment, furnishings or fixtures;
  - Repair or replacement of damaged construction if the repair or replacement is performed according to construction documents approved by construction review services within eight years preceding the current repair or replacement;
  - Painting, wall papering, and carpeting; or
  - Cosmetic changes that do not affect resident activities, services, or care and are performed in accordance with the current edition of Chapter 8 of the building code.

(3) The boarding home must include in its notification to construction review services, the likely adverse impacts of the construction process on current boarding home residents.

(4) The boarding home must submit plans to construction review services as directed by construction review services prior to beginning any construction. The plans must provide an analysis of likely adverse impacts on current boarding home residents and plans to eliminate or mitigate such adverse impacts.

#### NEW SECTION

**WAC 388-78A-0840 Relocation of residents during construction.** (1) Prior to moving residents out of the boarding home during construction, the boarding home must:

(a) Notify the department at least thirty days prior to the anticipated move date, of the boarding home's plans for relocating residents, including:

(i) How the residents will be informed of the required move and their options consistent with chapter 70.129 RCW;

(ii) The location to which the residents will be relocated;

(iii) The boarding home's plans for providing care and services during the relocation;

(iv) The boarding home's plans for returning residents to the building; and

(v) The projected time frame for completing the construction.

(b) Obtain the department's approval for the relocation plans prior to relocating residents.

(2) If the boarding home moves out all of the residents from the boarding home without first obtaining the department's approval of the relocation plans, the boarding home is closed for business and the department may revoke the licensee's boarding home license.

#### NEW SECTION

**WAC 388-78A-0850 Vacant buildings.** Whenever a boarding home moves out all residents and ceases operation for reasons other than construction, as specified in WAC 388-78A-0840, the licensee must relinquish the boarding home license or the department may revoke the boarding home license.

#### NEW SECTION

**WAC 388-78A-0860 Changing use of rooms.** Prior to using a room for a purpose other than what was approved by construction review services, the boarding home must:

(1) Notify construction review services:

(a) In writing,

(b) Thirty days or more before the intended change in use, and

(c) Describe the current and proposed use of the room.

(2) Obtain the written approval of construction review services for the new use of the room.

#### NEW SECTION

**WAC 388-78A-0870 Time frame for approval.** (1) A person or the licensee must:

(a) Obtain approval by construction review services, of final construction documents prior to starting any construction, except for fire alarm plans, fire sprinkler plans, and landscaping plans.

(b) Obtain approval by construction review services, of landscaping, fire alarm and fire sprinkler plans prior to their installation.

(2) The department will not issue a boarding home license unless construction review services:

(a) Notifies the department that construction has been completed;

(b) Provides the department:

(i) A copy of the certificate of occupancy granted by the local building official;

(ii) A copy of the Functional Program; and

(iii) A reduced copy of the approved floor plan indicating room numbers or names and the approved use.

#### **BUILDING**

#### NEW SECTION

**WAC 388-78A-0880 Retention of approved construction documents.** The boarding home must retain on the boarding home premises:

(1) Specification data on materials used in construction, for the life of the product;

(2) Stamped "approved" set of construction documents.

#### NEW SECTION

**WAC 388-78A-0890 Applicable building codes.** (1) Newly licensed boarding homes and construction in existing boarding homes must meet all the current building codes and this chapter.

(2) Existing licensed boarding homes must continue to meet the building codes in force at the time of their initial licensing.

#### NEW SECTION

**WAC 388-78A-0900 Area for nursing supplies and equipment.** (1) If the boarding home provides intermittent nursing services, the boarding home must provide on the boarding home premises for the safe and sanitary:

(a) Storage and handling of clean and sterile nursing equipment and supplies; and

(b) Cleaning and disinfecting soiled nursing equipment.

(2) For all boarding homes first issued a project number by Construction Review Services on or after September 1, 2003 in which intermittent nursing services are provided, or upon initiating intermittent nursing services within an existing boarding home, the boarding home must provide the following two separate rooms in each boarding home building, accessible only by staff persons:

(a) A "clean" utility room for the purposes of storing and preparing clean and sterile nursing supplies, equipped with:

- (i) A work counter or table;
- (ii) Hand washing sink, with soap and paper towels or other approved hand-drying device; and
- (iii) Locked medication storage, if medications are stored in this area, that is separate from all other stored items consistent with WAC 388-78A-0230.

(b) A "soiled" utility room for the purposes of storing soiled linen, cleaning and disinfecting soiled nursing care equipment, and disposing of refuse infectious waste, equipped with:

- (i) A work counter or table;
- (ii) A two-compartment sink for hand washing and equipment cleaning and sanitizing;
- (iii) A clinical service sink or equivalent for rinsing and disposing of waste material;
- (iv) Soap and paper towels or other approved hand-drying device; and
- (v) Locked storage for cleaning supplies, if stored in the area.

#### NEW SECTION

**WAC 388-78A-0910 Communication system.** (1) The licensee must ensure the boarding home:

(a) Provides residents and staff with the means to summon on-duty staff assistance from:

- (i) Resident units;
- (ii) Common areas accessible to residents;
- (iii) Corridors accessible to residents; and
- (iv) All bathrooms and all toilet rooms in boarding homes issued a project number by Construction Review Services on or after September 1, 2003.

(b) Provides residents, families, and other visitors with the means to contact staff inside the building from outside the building after hours.

(2) The boarding home must provide one or more non-pay telephones:

- (a) In each building located for ready access by staff; and
- (b) On the premises for reasonable access and privacy by residents.

(3) In boarding homes issued a project number by Construction Review Services on or after September 1, 2003, the boarding home must equip each resident room with:

(a) An intercom system with a mechanism that allows a resident to control:

- (i) Whether or not announcements are broadcast into the resident's room, and
- (ii) Whether or not voices or conversations within the resident's room can be monitored or listened to by persons outside the resident's room.

(b) Two telephone lines that are compatible with:

- (i) Telecommunication devices for the deaf equipment, and
- (ii) Telephones that have:
  - (A) Visual signals for ringing, and
  - (B) Voice amplification.
- (c) Television cable access where available in the community.

#### NEW SECTION

**WAC 388-78A-0920 Two-way intercom systems.** The boarding home may use a two-way intercom system between staff persons and residents in other rooms only when:

- (1) A resident initiates the contact; or
- (2) Staff persons announce to the resident that the intercom has been activated at the time it is activated, and:
  - (a) The resident and any others in the room agree to continue the contact,
  - (b) A visible signal is activated in the resident's room at all times the intercom is in operation, and
  - (c) The boarding home deactivates the intercom when the conversation is complete.

#### NEW SECTION

**WAC 388-78A-0930 Water supply.** The boarding home must:

- (1) Provide water meeting the provisions of chapter 246-290 WAC, Group A public water supplies or 246-291 WAC, Group B public water systems;
- (2) Maintain the boarding home water systems free of cross-connections as specified in *Cross-Connection Control Manual, 6th Edition*, published by the Pacific Northwest Section of the American Water Works Association;
- (3) Provide hot and cold water under adequate pressure readily available throughout the boarding home;
- (4) Provide all sinks and bathing fixtures used by residents with hot water between 105 and 120° F at all times;
- (5) Label or color code nonpotable water supplies "unsafe for domestic use"; and
- (6) Meet laundry and dishwashing water temperature requirements consistent with WAC 388-78A-1020 and 388-78A-0270.

#### NEW SECTION

**WAC 388-78A-0940 Sewage and liquid waste disposal.** The boarding home must:

- (1) Ensure all sewage and waste water drain into a municipal sewage disposal system if available; or
- (2) Provide on-site sewage disposal systems designed, constructed, and maintained as required by chapter 246-272 and 173-240 WAC, and local ordinances; and
- (3) Provide a grease interceptor when the boarding home has an on-site commercial kitchen.

#### NEW SECTION

**WAC 388-78A-0950 Garbage and refuse disposal.** The boarding home must:

- (1) Provide an adequate number of garbage containers to store refuse generated by the boarding home:
  - (a) Located in a storage area convenient for resident and staff use;
  - (b) Constructed of nonabsorbent material;
  - (c) Cleaned and maintained to prevent:
    - (i) Entrance of insects, rodents, birds, or other pests;
    - (ii) Odors; and

(iii) Other nuisances.

(2) Assure garbage and waste containers are emptied frequently to prevent hazards and nuisances; and

(3) Provide for safe and sanitary collection and disposal of:

- (a) Garbage and refuse,
- (b) Infectious waste, and
- (c) Waste grease from the kitchen.

#### NEW SECTION

**WAC 388-78A-0960 Lighting.** (1) The boarding home must maintain electric light fixtures and lighting necessary for the comfort and safety of residents.

(2) The boarding home must maintain lighting in common areas that meets Illuminating Engineering Society (IES) recommendations as follows:

AVERAGE MAINTAINED FOOTCANDLES		
Area	Ambient Light	Task Light
Toilet, Bathing and Laundry Facilities	30	50
Dining/Day Rooms	50	NA
Corridors, Hallways, and Stairways	30	NA
Janitor's Closet and Utility Rooms	30	NA

(3) The boarding home must provide enough lighting in each resident's room to meet the resident's needs, preferences and choices.

#### NEW SECTION

**WAC 388-78A-0970 Heating-cooling—Temperature.** The boarding home must:

(1) Equip each resident-occupied building with an approved heating system capable of maintaining a minimum temperature of 75° F per the building code.

(2) Equip each resident-occupied building with a mechanical air cooling system or equivalent capable of maintaining a temperature of 75° F in communities where the design dry bulb temperature exceeds 85° F for one hundred seventy-five hours per year or two percent of the time, as specified in the latest edition of *"Recommended Outdoor Design Temperatures—Washington State,"* published by Puget Sound chapter of American Society of Heating, Refrigeration, and Air-Conditioning Engineers;

(3) Equip each boarding home issued a project number by Construction Review Services on or after September 1, 2003 with a backup source of heat in enough common areas to keep all residents adequately warm during interruptions of normal heating operations;

(4) Prohibit the use of portable space heaters unless approved in writing by the Washington state director of fire protection; and

(5) Equip each resident sleeping room and resident living room in boarding homes issued a project number by Construction Review Services on or after September 1, 2003 with individual temperature controls located between thirty and

forty-eight inches above the floor capable of maintaining room temperature plus or minus three degrees Fahrenheit from setting, within a range of minimum 60 degrees to maximum 85° F.

#### NEW SECTION

**WAC 388-78A-0980 Ventilation.** The boarding home must:

- (1) Ventilate rooms to:
  - (a) Prevent excessive odors or moisture, and
  - (b) Remove smoke.
- (2) Designate and ventilate smoking areas, if smoking is permitted in the boarding home, to prevent air contamination throughout the boarding home;
- (3) Provide intact sixteen mesh screens on operable windows and openings used for ventilation; and
- (4) Prohibit screens that may restrict or hinder escape or rescue through emergency exit openings.

#### NEW SECTION

**WAC 388-78A-0990 Resident room—Room furnishings-storage.** (1) The boarding home must ensure each resident has a sleeping room that has:

- (a) Eighty or more square feet of usable floor space in a one-person sleeping room;
- (b) Seventy or more square feet of usable floor space per individual in a sleeping room occupied by two or more individuals, except:
  - (i) When a resident sleeping room is located within a private apartment; and
  - (ii) The private apartment includes a resident sleeping room, a resident living room, and a private bathroom; and
  - (iii) The total square footage in the private apartment equals or exceeds two hundred twenty square feet excluding the bathroom; and
  - (iv) There are no more than two residents living in the apartment; and
  - (v) Both residents mutually agree to share the resident sleeping room; and
  - (vi) All other requirements of this section are met, then the two residents may share a sleeping room with less than one hundred forty square feet.
- (c) A maximum sleeping room occupancy of:
  - (i) Four individuals if the boarding home was licensed before July 1, 1989, and licensed continuously thereafter; and
  - (ii) Two individuals if the boarding home, after June 30, 1989:
    - (A) Applied for initial licensure, or
    - (B) Applied to increase the number of resident sleeping rooms, or
    - (C) Applied to change the use of rooms into sleeping rooms.
    - (d) Unrestricted direct access to a hallway, living room, outside, or other common-use area;
    - (e) One or more outside windows with:
      - (i) Window sills at or above grade, with grade extending horizontally ten or more feet from the building; and

(ii) Adjustable curtains, shades, blinds, or equivalent for visual privacy.

(f) One or more duplex electrical outlets per bed if the boarding home was initially licensed after July 1, 1983;

(g) A light control switch located by the entrance for a light fixture in the room;

(h) An individual towel and washcloth rack or equivalent, except when there is a private bathroom attached to the resident sleeping or living room, the individual towel and washcloth rack may be located in the attached private bathroom;

(i) In all boarding homes issued a project number by Construction Review Services on or after September 1, 2003, and when requested by a resident in a boarding home licensed on or prior to September 1, 2003, provide a lockable drawer, cupboard or other secure space measuring at least one-half cubic foot with a minimum dimension of four inches;

(j) Storage facilities in or immediately adjacent to the resident's sleeping room to adequately store a reasonable quantity of clothing and personal possessions;

(k) A configuration to permit all beds in the resident sleeping room to be spaced at least three feet from other beds unless otherwise requested by all affected residents.

(2) The boarding home must ensure each resident sleeping room contains:

(a) A comfortable bed for each resident, except when two residents mutually agree to share a bed. The bed must be thirty-six or more inches wide for a single resident and fifty-four or more inches wide for two residents, appropriate for size, age and physical condition of the resident and room dimensions, including but not limited to:

(i) Standard household bed,

(ii) Studio couch,

(iii) Hide-a-bed,

(iv) Day bed, or

(v) Water bed, if structurally and electrically safe.

(b) A mattress for each bed which:

(i) Fits the bed frame,

(ii) Is in good condition, and

(iii) Is at least four inches thick unless otherwise requested or necessary for resident health or safety.

(c) One or more comfortable pillows for each resident;

(d) Bedding for each bed, in good repair; and

(e) Lighting at the resident's bedside when requested by the resident.

(3) The boarding home must not allow a resident sleeping room to be used as a passageway or corridor.

(4) The boarding home may use or allow use of carpets and other floor coverings only when the carpet is:

(a) Securely fastened to the floor or provided with non-skid backing; and

(b) Kept clean and free of hazards, such as curling edges or tattered sections.

(5) The boarding home must ensure each resident has either a sleeping room or resident living room that contains a sturdy, comfortable chair appropriate for the age and physical condition of the resident. This requirement does not mean a boarding home is responsible for supplying specially designed orthotic or therapeutic chairs, including those with mechanical lifts or adjustments.

## NEW SECTION

**WAC 388-78A-1000 Calculating floor space.** Usable floor space in a resident's sleeping room is calculated by measuring from interior wall surface to interior wall surface:

(1) Including:

(a) Areas under moveable furniture; and

(b) Areas of door swings and entry ways into the sleeping room.

(2) Excluding:

(a) Areas under ceilings less than seven feet six inches high;

(b) Closet space and built-in storage;

(c) Areas under counters, sinks, or appliances; and

(d) Bathrooms and toilet rooms.

## NEW SECTION

**WAC 388-78A-1010 Toilet rooms and bathrooms.** (1) The boarding home must provide private or common-use toilet rooms and bathrooms to meet the needs of each resident.

(2) The boarding home must provide each toilet room and bathroom with:

(a) Water resistant, smooth, low gloss, non-slip and easily cleanable materials;

(b) Washable walls to the height of splash or spray;

(c) Grab bars installed and located to minimize accidental falls including one or more grab bars at each:

(i) Bathing fixture, and

(ii) Toilet.

(d) Plumbing fixtures designed for easy use and cleaning and kept in good repair; and

(e) Adequate mechanical ventilation to the outside of the boarding home.

(3) The boarding home must provide each toilet room with a:

(a) Toilet with a clean, nonabsorbent seat free of cracks;

(b) Hand washing sink in or adjacent to the toilet room.

For boarding homes issued a project number by Construction Review Services on or after September 1, 2003, the hand washing sink must be in the toilet room or in an adjacent private area that is not part of a common use area of the boarding home; and

(c) Suitable mirror with adequate lighting for general illumination.

(4) For boarding homes approved for construction or initially licensed after August 1, 1994, the boarding home must provide a toilet and hand washing sink in, or adjoining, each bathroom.

(5) When providing common-use toilet rooms and bathrooms, the boarding home must provide toilets and hand washing sinks for residents in the ratios of one toilet and one hand washing sink for every eight residents as listed in the following table:

Number of Residents	Number of Toilets*	Number of Hand Washing Sinks
1-8	1	1
9-16	2	2
17-24	3	3

Number of Residents	Number of Toilets*	Number of Hand Washing Sinks
25-32	4	4
33-40	5	5
41-48	6	6
49-56	7	7
57-64	8	8
65-72	9	9
73-80	10	10
81-88	11	11
89-96	12	12
97-104	13	13
105-112	14	14
113-120	15	15
121-128	16	16
129-136	17	17
137-144	18	18
145-152	19	19
153-160	20	20
161-168	21	21
169-176	22	22
177-184	23	23

\*When two or more toilets are contained in a single bathroom, they are counted as one toilet.

(6) When providing common-use toilet rooms and bathrooms, the boarding home must provide bathing fixtures for residents in the ratio of one bathing fixture for every twelve residents as listed in the following table:

Number of Residents	Number of Bathing Fixtures
1-12	1
13-24	2
25-36	3
37-48	4
49-60	5
61-72	6
73-84	7
85-96	8
97-108	9
109-120	10
121-132	11
133-144	12
145-160	13
161-172	14
173-184	15
185-196	16

(7) When providing common-use toilet rooms and bathrooms, the boarding home must:

(a) Designate toilet rooms containing more than one toilet for use by men or women;

(b) Designate bathrooms containing more than one bathing fixture for use by men or women;

(c) Equip each toilet room and bathroom designed for use by, or used by, more than one person at a time, in a manner to ensure visual privacy for each person using the room. The boarding home is not required to provide additional privacy features in private bathrooms with a single toilet and a single bathing fixture located within a private apartment;

(d) Provide a hand-washing sink with soap and single use or disposable towels, blower or equivalent hand-drying device in each toilet room, except that single use or disposable towels or blowers are not required in toilet rooms or bathrooms that are located within a private apartment;

(e) Provide reasonable access to bathrooms and toilet rooms for each resident by:

(i) Locating a toilet room on the same floor or level as the sleeping room of the resident served;

(ii) Locating a bathroom on the same floor or level, or adjacent floor or level, as the sleeping room of the resident served; and

(iii) Providing access without passage through any kitchen, pantry, food preparation, food storage, or dishwashing area, or from one bedroom through another bedroom.

(8) In boarding homes issued a project number by Construction Review Services on or after September 1, 2003, the boarding home must ensure fifty percent of all the bathing fixtures in the boarding home are roll-in type showers that have:

(a) One half inch or less threshold;

(b) A minimum size of thirty-six inches by forty-eight inches; and

(c) Single lever faucets located within thirty-six inches of the seat so it is within reach of persons seated in the shower.

#### NEW SECTION

**WAC 388-78A-1020 Laundry.** (1) The boarding home must provide laundry and linen services on the premises, or by commercial laundry.

(2) The boarding home must handle, clean, and store linen according to acceptable methods of infection control. The boarding home must:

(a) Provide separate areas for handling clean laundry and soiled laundry;

(b) Ensure clean laundry is not processed in, and does not pass through, areas where soiled laundry is handled;

(c) Ensure areas where clean laundry is stored are not exposed to contamination from other sources; and

(d) Ensure all staff wears gloves and use other appropriate infection control practices when handling soiled laundry.

(3) The boarding home must use washing machines that have hot water with a temperature of one hundred forty degrees Fahrenheit measured at the washing machine intake, or that automatically dispense a chemical sanitizer as specified by the manufacturer, whenever the boarding home washes:

(a) Boarding home laundry;

(b) Boarding home laundry combined with residents' laundry into a single load; or

PROPOSED

(c) More than one resident's laundry combined into a single load.

(4) The boarding home or a resident washing an individual resident's personal laundry, separate from other laundry, may wash the laundry at temperatures below 140° F and without the use of a chemical sanitizer.

(5) The boarding home must ventilate laundry rooms and areas to the outside of the boarding home, including areas or rooms where soiled laundry is held for processing by off-site commercial laundry services.

(6) The boarding home must locate laundry equipment in rooms other than those used for open food storage, food preparation or food service.

(7) For all boarding homes issued a project number by Construction Review Services on or after September 1, 2003, the boarding home must provide a laundry area where residents' may do their personal laundry that is:

(a) Equipped with:

(i) A utility sink;

(ii) A table or counter for folding clean laundry;

(iii) At least one washing machine and one clothes dryer; and

(iv) Mechanical ventilation to the outside of the boarding home.

(b) Is arranged to reduce the chances of soiled laundry contaminating clean laundry.

(8) The boarding home may combine areas for soiled laundry with other areas when consistent with WAC 388-78A-1090.

(9) The boarding home may combine areas for handling and storing clean laundry with other areas when consistent with WAC 388-78A-1100.

#### NEW SECTION

**WAC 388-78A-1030 Day rooms.** (1) The boarding home must provide one or more day room areas in which residents may participate in social and recreational activities. Day room areas include, but are not limited to:

(a) Solariums;

(b) Enclosed sun porches;

(c) Recreation rooms;

(d) Dining rooms; and

(e) Living rooms.

(2) The boarding home must provide a total minimum floor space for day room areas of:

(a) One hundred fifty square feet, or ten square feet per resident, whichever is larger, in boarding homes licensed on or before December 31, 1988; or

(b) One hundred fifty square feet, or twenty square feet per resident, whichever is larger, in boarding homes licensed after December 31, 1988.

(3) The boarding home must provide day room areas with comfortable furniture and furnishings that meet the residents' needs.

#### NEW SECTION

**WAC 388-78A-1040 Storage space.** The boarding home must:

(1) Provide adequate storage space for supplies, equipment and linens;

(2) Provide separate, locked storage for disinfectants and poisonous compounds; and

(3) Maintain storage space to prevent fire or safety hazards.

#### NEW SECTION

**WAC 388-78A-1050 Stairs—Ramps.** The boarding home must maintain nonskid surfaces on all stairways and ramps used by residents.

#### NEW SECTION

**WAC 388-78A-1060 Guardrails—Handrails.** (1) The boarding home must install and maintain sturdy handrails according to building code requirements, located:

(a) In halls and corridors, if necessary for resident safety;

(b) On each side of interior and exterior stairways with more than one step riser, unless the department approves in writing having a handrail on one side only; and

(c) On each side of interior and exterior ramps with slopes greater than one to twenty.

(2) The boarding home must install guardrails if the department determines guardrails are necessary for resident safety.

#### NEW SECTION

**WAC 388-78A-1070 Maintenance and housekeeping.**

(1) The boarding home must:

(a) Provide a safe, sanitary and well maintained environment for residents;

(b) Keep exterior grounds, boarding home structure, and component parts safe, sanitary and in good repair;

(c) Keep facilities, equipment and furnishings clean and in good repair;

(d) Ensure each resident or staff person maintains the resident's quarters in a safe and sanitary condition; and

(e) Equip a housekeeping supply area on the premises with:

(i) A utility sink or equivalent means of obtaining and disposing of mop water, away from food preparation and service areas;

(ii) Storage for wet mops, ventilated to the outside of the boarding home; and

(iii) Locked storage for cleaning supplies.

(2) For boarding homes issued a project number by Construction Review Services on or after September 1, 2003, the boarding home must provide housekeeping supply room(s):

(a) Located on each floor of the boarding home;

(b) In proximity to laundry and kitchen areas; and

(c) Equipped with:

(i) A utility sink or equivalent means of obtaining and disposing of mop water, away from food preparation and service areas;

(ii) Storage for wet mops;

(iii) Locked storage for cleaning supplies; and

(iv) Mechanical ventilation to the outside of the boarding home.

#### NEW SECTION

**WAC 388-78A-1080 Safe storage of supplies and equipment.** The boarding home must secure potentially hazardous supplies and equipment commensurate with the assessed needs of residents and their functional and cognitive abilities. In determining what supplies and equipment may be accessible to residents, the boarding home must consider at a minimum:

- (1) The residents' characteristics and needs;
- (2) The degree of hazardousness or toxicity posed by the supplies or equipment;
- (3) Whether or not the supplies and equipment are commonly found in a private home, such as hand soap or laundry detergent; and
- (4) How residents with special needs are individually protected without unnecessary restrictions on the general population.

#### NEW SECTION

**WAC 388-78A-1090 Areas for cleaning and storing soiled equipment, supplies and laundry.** (1) The boarding home may combine areas used for storing, handling and cleaning soiled laundry and linens, areas used for cleaning and disinfecting soiled nursing care equipment, areas for disposing of refuse and infectious waste, and/or areas for storing housekeeping and cleaning supplies, into a single area on the premises only when the boarding home equips the area with:

- (a) A two-compartment sink for hand washing and sanitizing;
- (b) A clinical service sink or equivalent for rinsing and disposing of waste material;
- (c) A work counter or table;
- (d) Mechanical ventilation to the outside of the boarding home; and
- (e) Locked storage for cleaning supplies, if stored in the area.

(2) The boarding home must ensure that any work or function performed in or around a combined utility area as described in subsection (1) of this section is performed without significant risk of contamination to:

- (a) Storing or handling clean or sterile nursing supplies or equipment;
- (b) Storing or handling clean laundry;
- (c) Providing resident care;
- (d) Food storage, preparation, or service; or
- (e) Other operations, services or functions in the boarding home sensitive to infection control practices.

#### NEW SECTION

**WAC 388-78A-1100 Areas for handling and storing clean supplies and equipment.** The boarding home may combine areas used for handling and storing clean laundry, and areas used for storing, preparing and handling clean and

sterile nursing supplies, equipment and medications, into a single area on the premises only when the boarding home:

- (1) Equips the area with:
  - (a) A hand washing sink, and
  - (b) A work counter or table.
- (2) Ensures that any work or function performed in the area is performed without significant risk of contamination from other sources; and
- (3) Stores medications separate from all other stored items consistent with WAC 388-78A-0230.

#### NEW SECTION

**WAC 388-78A-1110 Plant restrictions.** The boarding home must not use poisonous or toxic plants in areas of the boarding home premises accessible to residents who, based on their diagnosed condition or cognitive disabilities, may ingest or have harmful contact with such plants.

#### **INSPECTIONS, ENFORCEMENT REMEDIES, AND APPEALS**

#### NEW SECTION

**WAC 388-78A-1120 Responsibilities during inspections.** (1) During any on-site inspection or complaint investigation conducted by the department, the licensee must cooperate with the department by providing to authorized representatives of the department:

- (a) All records and information related to the operation of the boarding home that is requested, except that the boarding home is not required to provide financial records to department licensing staff or complaint investigators that are not relevant to the provision of care or services to residents;
- (b) Staff personnel records directly related to licensing requirements consistent with WAC 388-78A-0460, including but not limited to:
  - (i) Staff hiring and training;
  - (ii) Criminal history background checks;
  - (iii) Staff job descriptions;
  - (iv) Staff schedules as planned and as worked;
  - (v) TB testing for staff;
  - (vi) Verification of contacting work references for newly hired staff; and
  - (vii) Verification of professional credentials.
- (c) A current roster of all residents receiving domiciliary care and their roommates and the rooms in which they reside/sleep consistent with WAC 388-78A-0450;
- (d) Facilitated access to:
  - (i) The boarding home premises; and
  - (ii) The boarding home residents and the rooms in which they reside.

(2) The licensee must ensure the boarding home administrator or the administrator's designee is available during any inspection or complaint investigation to respond to questions or issues identified by department staff.

PROPOSED

NEW SECTION

**WAC 388-78A-1130 Communication during inspections.** (1) To the fullest extent reasonably possible, the department will hold a daily communication meeting with the boarding home during any inspection that lasts more than one day.

(a) The department is not required to disclose information to boarding homes when doing so would compromise the inspection process or complaint investigation.

(b) Department staff shall make every effort to schedule such meeting if desired by the licensee. However, failure to hold a daily communication meeting is not grounds for nullifying or voiding any citation, statement of deficiencies, or enforcement remedies imposed by the department.

(2) The boarding home may designate a staff person to accompany department licensers or complaint investigators during inspections of the boarding home, except that boarding home staff persons may not be present:

(a) During interviews with residents unless requested by the resident; or

(b) When their presence may inhibit others from providing information to department licensers or complain investigators;

(c) When department licensers or complaint investigators are investigating an issue that, if prematurely disclosed to boarding home staff, may compromise the investigation.

(3) The department will make every effort to hold an exit conference when the department staff has finished collecting data on site, if such a meeting is desired by the licensee. However, failure to hold an exit conference is not grounds for nullifying or voiding any citation, statement of deficiencies, or enforcement remedies imposed by the department. During the exit conference:

(a) The department will present to the boarding home the preliminary factual findings representing violations that may be cited on a statement of deficiencies;

(b) The department will identify the rules that may have been violated:

(i) Department staff will identify the relevant section(s) of rule that address the potential violations.

(ii) Department staff is not required to identify the specific subsection of the rule that may be cited in a statement of deficiencies.

(c) The boarding home should be given an opportunity to:

(i) Question department staff regarding their findings, and

(ii) Provide the department additional factual information that may refute the presented facts or affect the determination of a deficiency.

NEW SECTION

**WAC 388-78A-1140 Communication following inspections.** Following an exit conference, if the department obtains additional information that may substantially alter the preliminary conclusions or issues identified during the exit conference, the department will to the fullest extent reasonably possible:

(1) Notify the boarding home of the additional issues or amended conclusions; and

(2) Provide the boarding home an opportunity to respond to the additional information:

- (a) By telephone,
- (b) In writing, or
- (c) By facsimile transmission.

NEW SECTION

**WAC 388-78A-1150 Statements of deficiencies and plans of correction.** (1) The department must give the administrator or the administrator's designee a written statement of deficiencies specifying any violations of chapters 18.20 or 70.129 RCW or this chapter that the department found during on-site inspections and complaint investigations.

(2) The licensee must respond to a statement of deficiencies by submitting to the department within a time acceptable to the department, a signed written plan of correction for each deficiency stated in the report. The licensee must include in the plan of correction, for each cited deficiency:

(a) A specific plan of what will be or was done to correct the violation,

(b) A description of what will be done to prevent future violations of this type,

(c) Who will be responsible for monitoring the corrections to ensure the violations do not recur, and

(d) The date by which lasting correction will be achieved.

NEW SECTION

**WAC 388-78A-1160 Authorized enforcement remedies.** (1) The department may deny, suspend, revoke or refuse to renew a boarding home license for any of the infractions described in WAC 388-78A-1170(1).

(2) The department may also suspend admissions to a boarding home, impose conditions on the boarding home license, or impose civil penalties of not more than one hundred dollars per day per violation per resident for infractions described in WAC 388-78A-1170(1).

NEW SECTION

**WAC 388-78A-1170 Infractions.** (1) Enforcement remedies described in WAC 388-78A-1160 may be imposed if any person or entity described in subsection (2) of this section is found by the department to have:

(a) A history of significant noncompliance with federal or state regulations in providing care or services to frail elders, vulnerable adults or children, whether as a licensee, contractor, managerial employee or otherwise. Evidence of significant noncompliance may include, without limitation:

(i) Citations for violation of regulations imposed by regulating entities;

(ii) Sanctions for violation of regulations imposed by regulating entities;

(iii) Involuntary termination, cancellation, suspension, or non-renewal of a Medicaid contract or Medicare provider

agreement, or any other agreement with a public agency for the care or treatment of children, frail elders or vulnerable adults;

(iv) Being denied a license application relating to the care of frail elders, vulnerable adults or children; or

(v) Relinquishing or failing to renew a license relating to care of frail elders, vulnerable adults or children following written notification of the licensing agency's initiation of denial, suspension, cancellation or revocation of a license.

(b) Failed to provide appropriate care to frail elders, vulnerable adults or children under a contract, or having such contract terminated or not renewed by the contracting agency due to such failure;

(c) Been convicted of a felony or a crime against a person if the conviction reasonably relates to the competency of the person to operate a boarding home;

(d) Failed or refused to comply with the requirements of chapter 18.20 RCW, applicable provisions of chapter 70.129 RCW or this chapter;

(e) Retaliated against a staff person, resident or other individual for:

(i) Reporting suspected abuse or other alleged improprieties;

(ii) Providing information to the department during the course of the department conducting an inspection of the boarding home; or

(iii) Providing information to the department during the course of the department conducting a complaint investigation in the boarding home.

(f) Operated a facility for the care of children or adults without a current, valid license or under a defunct or revoked license;

(g) Been convicted of a crime, permitted, aided or abetted an illegal act on a boarding home premises, or engaged in the illegal use of drugs or the excessive use of alcohol;

(h) Abused, neglected or exploited a vulnerable adult or knowingly failed to report alleged abuse, neglect or exploitation of a vulnerable adult as required by chapter 74.34 RCW;

(i) Failed to exercise fiscal accountability and responsibility involving a resident, the department, public agencies, or the business community; or has insufficient financial resources or unencumbered income to sustain the operation of the boarding home;

(j) Knowingly or with reason to know, made false statements of material fact in the application for the license or the renewal of the license or any data attached thereto, or in any matter under investigation by the department;

(k) Interfered with any inspection or investigation by the department or refused to allow department representatives to examine any part of the licensed premises including records required under this chapter;

(l) Moved all residents out of the boarding home without the department's approval and is no longer operating as a boarding home; or

(m) Demonstrated any other factors that give evidence the applicant lacks the appropriate character, suitability and competence to provide care or services to vulnerable adults.

(2) This section applies to any boarding home:

(a) Applicant;

(b) Partner, officer or director;

- (c) Manager or managerial employee; or
- (d) Owner of five percent or more of the entity applicant:
  - (i) Who is involved in the management or operation of the boarding home;
  - (ii) Who may have direct access to boarding home residents;
  - (iii) Who controls or supervises the provision of care of services to boarding home residents; or
  - (iv) Who exercises control over daily operations of the boarding home.

## NEW SECTION

**WAC 388-78A-1180 Required enforcement remedies.** The department must impose an appropriate remedy consistent with RCW 18.20.125 whenever the department finds a boarding home has:

(1) A serious problem, a recurring problem, or an uncorrected problem;

(2) Discriminated or retaliated in any manner against a resident, employee, or any other person because that person or any other person made a complaint or provided information to the department, the attorney general, a law enforcement agency, or the long-term care ombudsman; or

(3) Willfully interfered with the performance of official duties by a long-term care ombudsman.

## NEW SECTION

**WAC 388-78A-1190 Required denial, suspension, revocation, or nonrenewal of license.** (1) The department must deny, suspend, revoke or refuse to renew a boarding home license if any person or entity described in subsection (2) below is:

(a) Convicted of a crime against a person or a crime related to financial exploitation as defined under RCW 43.43.830 or 43.43.842; or

(b) Found by a court in a protection proceeding or in a civil damages lawsuit under chapter 74.34 RCW to have abused, neglected, abandoned or exploited a vulnerable adult; or

(c) Found in any dependency action under chapter 13.34 RCW to have sexually assaulted, neglected, exploited, or physically abused any minor; or

(d) Found by a court in a domestic relations proceeding under Title 26 RCW to have sexually abused, exploited, or physically abused any minor; or

(e) Certified by a lending agency and reported to the department for nonpayment or default on a federally or state-guaranteed educational loan or service-conditional scholarship; or

(f) Certified pursuant to RCW 74.20A.320 by the department as a person who is not in compliance with a support order or a residential or visitation order; or

(g) Found in any final decision issued by a disciplinary board to have sexually or physically abused or neglected or exploited any minor or any vulnerable adult, or has a stipulated finding of fact, conclusion of law, an agreed order, or finding of fact, conclusion of law, or final order issued by a disciplining authority, a court of law, or entered into a state

registry finding him or her guilty of abuse, neglect, exploitation, or abandonment of a minor or a vulnerable adult as defined in chapter 74.34 RCW.

- (2) This section applies to any boarding home:
  - (a) Applicant;
  - (b) Partner, officer or director;
  - (c) Manager or managerial employee; or
  - (d) Owner of five percent or more of the entity applicant:
  - (i) Who is involved in the operation of the boarding home, or
  - (ii) Who may have direct access to the boarding home residents, or
  - (iii) Who controls or supervises the provision of care or services to the boarding home residents, or
  - (iv) Who exercises control over daily operations.

#### NEW SECTION

**WAC 388-78A-1200 Criteria for enforcement remedies.** (1) When the department cites a boarding home for an initial violation that does not represent a recurring problem, serious problem or uncorrected problem, and that results in minimal or moderate harm that is limited in scope, the department:

- (a) May require a plan of correction from the licensee; and
- (b) May impose conditions on the boarding home license.
- (2) The department may impose a stop-placement on a boarding home when:
  - (a) There is a reasonable probability, at the time the stop-placement is imposed, that at least a moderate degree of harm will occur or recur as a result of a single problem or by a combination of problems; and
  - (b) The threatening problem is more than an isolated event or occurrence.
  - (3) The department may summarily suspend a boarding home's license when:
    - (a) There is an imminent threat that a serious degree of harm may occur to residents as a result of a single problem or a combination of problems; and
    - (b) The threatening problem is more than an isolated event or occurrence.
    - (4) The department may revoke a boarding home's license when:
      - (a) The department has cause to summarily suspend the boarding home's license;
      - (b) There is a current problem with the boarding home and the boarding home has a history of having enforcement remedies imposed by the department;
      - (c) There is a current problem with the boarding home and the boarding home has a history of noncompliance representing problems that were at least moderate in nature and moderate in scope;
      - (d) The licensee has moved all residents out of the boarding home without the department's approval and is no longer operating as a boarding home; or
      - (e) There is a very serious current problem, which may not warrant a summary suspension, with the boarding home that does not have a history of non-compliance. Examples of

the types of serious current problems that may warrant license revocation include, but are not limited to:

- (i) The licensee has been found or convicted by a court of competent jurisdiction to have engaged in fraudulent activity, or
- (ii) The licensee is experiencing significant financial problems resulting in poor care and possible business failure.

#### NEW SECTION

**WAC 388-78A-1210 Informal dispute resolution.** The licensee has a right to an informal dispute resolution meeting consistent with RCW 18.20.195, that is held by either:

- (1) The department's field manager who supervises the staff that conducted the disputed inspection or complaint investigation, or

- (2) Another department field manager assigned to the same department region in which the boarding home is located.

#### NEW SECTION

**WAC 388-78A-1220 Appeal rights.** (1) An applicant or licensee may contest an enforcement remedy imposed by the department pursuant to RCW 18.20.190 according to the provisions of chapter 34.05 RCW and chapters 10-08 and 388-02 WAC.

- (2) Orders of the department imposing licensing suspension, stop placement, or conditions for continuation of a license are effective immediately upon notice and shall continue pending any hearing.

#### NEW SECTION

**WAC 388-78A-1230 Fees.** The boarding home must:

- (1) Submit an annual license fee of seventy-nine dollars per bed of the licensed resident bed capacity;

- (2) Submit an additional one hundred fifty dollars when billed by the department for:
  - (a) A third on-site visit resulting from the boarding home's failure to adequately respond to a statement of deficiencies; and
  - (b) A complete on-site survey resulting from a substantiated complaint.

- (3) Submit an additional late fee in the amount of ten dollars per day from the license renewal date until the date of mailing the fee, as evidenced by the postmark; and

- (4) Submit to construction review services a fee for the review of the construction documents per the review fee schedule that is based on the project cost.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 388-78A-010

Definitions.

WAC 388-78A-020	Licensure—Initial, renewal, day care approval respite care, modifications.	WAC 388-78A-310	Resident register.
WAC 388-78A-030	Responsibilities and rights—Licensee and department.	WAC 388-78A-320	Resident health record.
WAC 388-78A-040	Administrator.	WAC 388-78A-330	Adult day care.
WAC 388-78A-045	Criminal history, disclosure, and background inquiries.	WAC 388-78A-335	Residents—Dementia care.
WAC 388-78A-050	Staff.	WAC 388-78A-340	Exemptions.
WAC 388-78A-055	Policies and procedures.	WAC 388-78A-990	Fees.
WAC 388-78A-060	HIV/AIDS education and training.		
WAC 388-78A-070	Construction.		
WAC 388-78A-080	Communication system.		
WAC 388-78A-090	Water supply.		
WAC 388-78A-100	Sewage and liquid waste disposal.		
WAC 388-78A-110	Garbage and refuse disposal.		
WAC 388-78A-120	Lighting.		
WAC 388-78A-130	Heating—Temperature.		
WAC 388-78A-140	Ventilation.		
WAC 388-78A-150	Resident room—Room furnishings—Storage.		
WAC 388-78A-160	Toilet rooms and bathrooms.		
WAC 388-78A-170	Food and nutrition services.		
WAC 388-78A-180	Day rooms.		
WAC 388-78A-190	Laundry.		
WAC 388-78A-200	Storage space.		
WAC 388-78A-210	Stairs—Ramps.		
WAC 388-78A-220	Guardrails—Handrails.		
WAC 388-78A-230	Maintenance and housekeeping.		
WAC 388-78A-240	Criteria for accepting and retaining residents.		
WAC 388-78A-250	Resident rights.		
WAC 388-78A-260	Resident services.		
WAC 388-78A-265	Limited nursing services.		
WAC 388-78A-268	Health care services—Resident-arranged.		
WAC 388-78A-280	Notification—Change in resident's condition.		
WAC 388-78A-290	Safety measures and quality assurance.		
WAC 388-78A-300	Medication services.		

**PROPOSED**

**WSR 03-04-019**  
**PROPOSED RULES**  
**STATE BOARD OF EDUCATION**

[Filed January 27, 2003, 2:15 p.m.]

Preproposal statement of inquiry was filed as WSR 02-16-010.

**Purpose:** WAC 180-79A-231 is being amended to align it with federal regulations. Individuals obtaining a conditional school speech language pathologist certificate will need to be enrolled in a master's program to obtain a second conditional certificate.

**Statutory Authority for Adoption:** RCW 28A.410.010.

**Summary:** See Purpose above.

**Reasons Supporting Proposal:** See Purpose above.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Larry Davis, State Board of Education, Olympia, (360) 725-6024.

**Name of Proponent:** State Board of Education.

Rule is necessary because of federal law, Individuals with Disabilities Education Act (IDEA), Public Law 105-17, to implement regulations in 34 C.F.R. - 300 series.

**Explanation of Rule, its Purpose, and Anticipated Effects:** See Purpose above.

**Proposal Changes the Following Existing Rules:** See Purpose above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Not applicable.

RCW 34.05.328 does not apply to this rule adoption. Not applicable.

**Hearing Location:** ESD 113, 601 McPhee Road, Olympia, WA 98502-5080, on March 19, 2003, at 8:30 a.m.

**Assistance for Persons with Disabilities:** Contact Laura Moore by February 24, 2003, TDD (360) 664-3631 or (360) 725-6027.

**Submit Written Comments to:** Rules Coordinator, State Board of Education, P.O. Box 47206, Olympia, WA 98504-7206, fax (360) 586-2357, by February 24, 2003.

**Date of Intended Adoption:** March 21, 2003.

January 23, 2003

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 02-13-027, filed 6/12/02, effective 7/13/02)

**WAC 180-79A-231 Limited certificates.** Notwithstanding other requirements prescribed in this chapter for eli-

gibility for certification in the state of Washington, the following certificates shall be issued under specific circumstances set forth below for limited service:

(1) Conditional certificate.

(a) The purpose of the conditional certificate is to assist local school districts, approved private schools, and educational service districts in meeting the state's educational goals by giving them flexibility in hiring decisions based on shortages or the opportunity to secure the services of unusually talented individuals. The state board of education encourages in all cases the hiring of fully certificated individuals and understands that districts will employ individuals with conditional certificates only after careful review of all other options. The state board of education asks districts when reviewing such individuals for employment to consider, in particular, previous experience the individual has had working with children.

(b) Conditional certificates are issued upon application by the local school district, approved private school, or educational service district superintendent to persons who meet the age, good moral character, and personal fitness requirements of WAC 180-79A-150 (1) and (2), if one of the following conditions is verified:

(i) The applicant is highly qualified and experienced in the subject matter to be taught and has unusual distinction or exceptional talent which is able to be demonstrated through public records of accomplishments and/or awards; or

(ii) No person with regular teacher certification in the endorsement area is available as verified by the district or educational service district superintendent or approved private school administrator, or circumstances warrant consideration of issuance of a conditional certificate.

(c) In addition, conditional certificates are issued to persons in the following categories only if no person with regular certification is available:

(i) The applicant qualifies to instruct in the traffic safety program as paraprofessionals pursuant to WAC 392-153-020 (2) and (3); or

(ii) The applicant is assigned instructional responsibility for intramural/interscholastic activities which are part of the district or approved private school approved program; or

(iii) The applicant possesses a state of Washington license for a registered nurse: Provided, That the district will be responsible for orienting and preparing individuals for their assignment as described in (e)(iii) of this subsection; or

(iv) The applicant has completed a ((baealaureate degree level)) state-approved school speech pathologist or audiologist certification preparation program, ((who were)) and was eligible for certification at the time of program completion and ((who have)) has served in the role for three of the last seven years. Conditional certificates, issued to speech-language pathologists or audiologists after May 1, 2003, which are valid for up to two years, may be reissued once for up to two years, if the individual provides evidence that he/she is enrolled in and completing satisfactory progress in a master's degree program resulting in the initial ESA school speech-language pathologist or audiologist certificate.

(v) The applicant for a conditional teaching certificate in special education shall hold a bachelor's degree or higher from a regionally accredited college/university. Conditional

certificates issued to special education teachers after May 1, 2003, which are valid for up to two years, may be reissued once for up to two years, if the applicant provides verification that he/she is enrolled in and completing satisfactory progress in an approved teacher preparation program resulting in a residency teacher certificate endorsed in special education.

(d) The educational service district or local district superintendent or administrator of an approved private school will verify that the following criteria have been met when requesting the conditional certificate:

(i) The district or educational service district superintendent or approved private school administrator has indicated the basis on which he/she has determined that the individual is competent for the assignment;

(ii) The individual is being certificated for a specific assignment and responsibility in a specified activity/field;

(e) When requesting the conditional certificate for persons who provide classroom instruction, the educational service district superintendent or local district superintendent or approved private school administrator will verify that the following additional criteria will be met:

(i) After specific inclusion on the agenda, the school board or educational service district board has authorized submission of the application.

(ii) The individual will be delegated primary responsibility for planning, conducting, and evaluating instructional activities with the direct assistance of a school district or approved private school mentor and will not be serving in a paraprofessional role which would not require certification;

(iii) Personnel so certificated will be oriented and prepared for the specific assignment by the employing district or approved private school. A written plan of assistance will be developed, in cooperation with the person to be employed within twenty working days from the commencement of the assignment. In addition, prior to service the person will be apprised of any legal liability, the responsibilities of a professional educator, the lines of authority, and the duration of the assignment;

(iv) Within the first sixty working days, personnel so certificated will complete sixty clock hours (six quarter hours or four semester hours) of course work in pedagogy and child/adolescent development appropriate to the assigned grade level(s) as approved by the employing school district or approved private school.

(f) The certificate is valid for two years or less, as evidenced by the expiration date which is printed on the certificate, and only for the activity specified. The certificate may be reissued for two years and for two-year intervals thereafter upon application by the employing local school district, approved private school, or educational service district and upon completion of sixty clock hours (six quarter hours or four semester hours) of course work since the issuance of the most recent certificate. The requesting local school district, approved private school, or educational service district shall verify that the sixty clock hours taken for the reissuance of the certificate shall be designed to support the participant's professional growth and enhance the participant's instructional knowledge or skills to better assist students meeting the state learning goals and/or essential academic learning requirements.

**(2) Substitute certificate.**

(a) The substitute certificate entitles the holder to act as substitute during the absence of the regularly certificated staff member for a period not to exceed thirty consecutive school days during the school year in any one assignment. This certificate may be issued to:

(i) Teachers, educational staff associates or administrators whose state of regular Washington certificates have expired; or

(ii) Persons who have completed state approved preparation programs and baccalaureate degrees at regionally accredited colleges and universities for certificates; or

(iii) Persons applying as out-of-state applicants who qualify for certification pursuant to WAC 180-79A-257 (1)(c) and (d).

(b) The substitute certificate is valid for life.

**(3) Emergency certification.**

(a) Emergency certification for specific positions may be issued upon the recommendation of school district and educational service district superintendents or approved private school administrators to persons who hold the appropriate degree and have substantially completed a program of preparation in accordance with Washington requirements for certification: Provided, That a qualified person who holds regular certification is not available or that the position is essential and circumstances warrant consideration of issuance of an emergency certificate: Provided further, That a candidate for emergency certification as a school counselor, school psychologist, or social worker shall be the best qualified of the candidates for the position as verified by the employing school district and shall have completed all course work for the required master's degree with the exception of the internship: Provided further, That a candidate for emergency certification as a school psychologist shall be enrolled in an approved school psychologist preparation program and shall be participating in the required internship.

(b) The emergency certificate is valid for one year or less, as evidenced by the expiration date which is printed on the certificate.

**(4) Emergency substitute certification.**

(a) If the district or approved private school has exhausted or reasonably anticipates it will exhaust its list of qualified substitutes who are willing to serve as substitutes, the superintendent of public instruction may issue emergency substitute certificates to persons not fully qualified under subsection (2) of this section for use in a particular school district or approved private school once the list of otherwise qualified substitutes has been exhausted.

(b) Such emergency substitute certificates shall be valid for three years or less, as evidenced by the expiration date which is printed on the certificate.

(5) Nonimmigrant alien exchange teacher. Applicants for certification as a nonimmigrant alien exchange teacher must qualify pursuant to WAC 180-79A-270 and be eligible to serve as a teacher in the elementary or secondary schools of the country of residence.

**(6) Intern substitute teacher certificate.**

(a) School districts and approved private schools may request intern substitute teacher certificates for persons

enrolled in student teaching/internships to serve as substitute teachers in the absence of the classroom teacher.

(b) The supervising college or university must approve the candidate for the intern substitute teacher certificate.

(c) Such certificated substitutes may be called at the discretion of the school district or approved private school to serve as a substitute teacher only in the classroom(s) to which the individual is assigned as a student teacher/intern.

(d) The intern substitute teacher certificate is valid for one year, or less, as evidenced by the expiration date which is printed on the certificate.

**(7) Transitional certificate.**

(a) A teacher whose continuing certificate has lapsed according to WAC 180-85-040 may be issued a transitional certificate to be employed on a conditional basis upon request by a school district, approved private school, or educational service district superintendent. The holder of the transitional certificate must complete any continuing certificate reinstatement requirements established by the state board of education within two years of the date the holder was issued the transitional certificate in order to continue to be employed. The transitional certificate expiration date shall not be calculated under state board policy WAC 180-79A-117.

(b) No teacher whose continuing certificate has been suspended or revoked shall be eligible to be employed under this section.

(c) School districts, approved private schools, and educational service districts are strongly encouraged to develop with the holder of a transitional certificate a plan of assistance to be sure the holder completes the necessary continuing certificate reinstatement requirements under WAC 180-85-130 within the two-year conditional employment period specified under (a) of this subsection if the holder is to continue to be employed.

(d) The transitional certificate is not renewable.

## **WSR 03-04-032**

### **PROPOSED RULES**

### **DEPARTMENT OF REVENUE**

[Filed January 27, 2003, 3:30 p.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 02-11-148.

Title of Rule: WAC 458-20-135 Extracting natural products.

Purpose: This rule discusses the tax-reporting responsibilities of persons extracting natural products.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.04.100, 82.04-230, and other statutes in chapters 82.04, 82.08, and 82.12 RCW as they apply to extracting activities.

Summary: This rule explains the business and occupation (B&O), retail sales, and use tax reporting responsibilities of extractors and extractors for hire. Persons extracting natural products often use the same extracted products in a manufacturing process, and the rule provides guidance for deter-

mining when an extracting activity ends and the manufacturing activity begins. This rule does not discuss the taxability of persons engaging in activities associated with timber harvest operations, which are addressed in WAC 458-20-13501 Timber harvest operations.

**Reasons Supporting Proposal:** To incorporate provisions of chapter 118, Laws of 2001, which in part changed the definition of "extractor" to specifically recognize and exclude "farmers" as defined in RCW 82.04.213.

Name of Agency Personnel Responsible for Drafting: Pat Moses, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 902-7111; Implementation: Alan Lynn, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6125; and Enforcement: Russell Brubaker, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6131.

Name of Proponent: Department of Revenue, governmental.

Rule is not necessitated by federal law, federal or state court decision.

**Explanation of Rule, its Purpose, and Anticipated Effects:** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to persons extracting natural products. Extracting and manufacturing activities are often closely associated and persons who extract often perform manufacturing on products that they have extracted. This rule provides guidance and examples so that persons who extract or both extract and manufacture products can correctly report their tax liabilities. The rule is also used by agency personnel in assisting taxpayers and to promote consistent application of the associated statutes.

The department proposes revising this rule to incorporate provisions of chapter 118, Laws of 2001, which in part changed the definition of "extractor" to specifically recognize and exclude "farmers" as defined in RCW 82.04.213. The department also proposes to restructure the information provided in subsection (2)(b)(ii), which provides guidance regarding when an extracting activity ends and manufacturing begins for commercial fishing. This restructuring does not result in any change to the reporting instructions provided in the current rule, but is being made to provide the information in a more useful manner. Subsection (3)(a) has been expanded to clarify how a person who extracts products and then uses the extracted products in a manufacturing process computes the multiple activities tax credit.

**Proposal Changes the Following Existing Rules:** This proposal amends WAC 458-20-135 as noted above.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The proposed rule does not impose any performance requirement or duty upon any business that results in additional business costs that is not already imposed by statute.

RCW 34.05.328 does not apply to this rule adoption. This is an interpretive rule as defined in RCW 34.05.328.

**Hearing Location:** Capital Plaza Building, 4th Floor, Large Conference Room, 1025 Union Avenue S.E., Olympia, WA, on March 11, 2003, at 1:30 p.m.

**Assistance for Persons with Disabilities:** Contact Sandy Davis no later than ten days before the hearing date, TTY 1-800-451-7985 or (360) 570-6175.

Submit Written Comments to: Pat Moses, Department of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, fax (360) 664-0693, e-mail PatM@dor.wa.gov, by March 11, 2003.

Date of Intended Adoption: March 18, 2003.

January 27, 2003

Alan R. Lynn  
Rules Coordinator  
Legislation and Policy Division

**AMENDATORY SECTION** (Amending WSR 00-11-096, filed 5/17/00, effective 6/17/00)

**WAC 458-20-135 Extracting natural products.** (1) **Introduction.** This rule explains the application of the business and occupation (B&O), retail sales, and use taxes to persons extracting natural products. Persons extracting natural products often use the same extracted products in a manufacturing process. The rule provides guidance for determining when an extracting activity ends and the manufacturing activity begins. In addition to all other taxes, commercial fishermen may be subject to the enhanced food fish excise tax levied by chapter 82.27 RCW (Tax on enhanced food fish).

Persons engaging in activities associated with timber harvest operations should refer to WAC 458-20-13501 (Timber harvest operations). Persons engaged in a manufacturing activity should also refer to WAC 458-20-136 (Manufacturing, processing for hire, fabricating) and 458-20-13601 (Manufacturers and processors for hire—Sales and use tax exemptions for machinery and equipment).

(In addition to all other taxes, commercial fishermen may be subject to the enhanced fish excise tax levied by chapter 82.27 RCW (Tax on enhanced food fish).)

(2) ((Extracting activities-)) **Who is an "extractor"?** RCW 82.04.100 defines the term "extractor" to mean every person who, from the person's own land or from the land of another under a right or license granted by lease or contract, either directly or by contracting with others for the necessary labor or mechanical services, for sale or for commercial or industrial use mines, quarries, takes or produces coal, oil, natural gas, ore, stone, sand, gravel, clay, mineral, or other natural resource product. The term includes a person who fells, cuts, or takes timber, Christmas trees other than plantation Christmas trees, or other natural products. It also includes any person who takes fish, shellfish, or other sea or inland water foods or products.

(a) **Persons excluded from the definition of "extractor."** The term "extractor" does not include:

(i) Persons performing under contract the necessary labor or mechanical services for others (these persons are extractors for hire, see subsection (4) below;) or

(ii) ((Persons cultivating or raising fish entirely within confined rearing areas on the person's own land or on land in which the person has a present right of possession;

(iii) Persons who fell, cut, or take plantation Christmas trees from the person's own land or from land in which the person has a present right of possession; or

(iv) Persons cultivating or raising shellfish or any other cultural aquatic product as defined in RCW 15.85.020 on the

person's own land or on land in which the person has a present right of possession. This exclusion from the definition of "extractor" is because these persons qualify as farmers under RCW 82.04.213. (Persons identified under subsection (2)(a)(ii) and (iii) are also considered farmers.)) Persons who are farmers as defined in RCW 82.04.213. Refer to WAC 458-20-209 and 458-20-210 for tax-reporting information for farmers and persons selling property to or performing horticultural services for farmers.

(b) **When an extractor is also a manufacturer.** An extractor may subsequently take an extracted product and use it as a raw material in a manufacturing process. The following examples explain when an extracting process ends and a manufacturing process begins for various situations. These examples should be used only as a general guide. ((Similar determinations)) A determination of when extracting ends and manufacturing begins for other situations can be made only after a review of all of the facts and circumstances.

(i) **Mining and quarrying.** Mining and quarrying operations are extracting activities, and generally include the screening, sorting, and piling of rock, sand, stone, gravel, or ore. For example, an operation that extracts rock, then screens, sorts, and with no further processing places the rock into piles for sale, is an extracting operation.

(A) The crushing and/or blending of rock, sand, stone, gravel, or ore are manufacturing activities. These are manufacturing activities whether or not the materials were previously screened or sorted.

(B) Screening, sorting, piling, or washing of the material, when the activity takes place in conjunction with crushing or blending at the site where the materials are taken or produced, is considered a part of the manufacturing ((activity)) operation if it takes place after the first screen. If there is no separate first screen, only those activities subsequent to the materials being deposited into the screen are considered a part of the manufacturing ((activities)) operation.

(ii) **Commercial fishing.** Commercial fishing operations, including the taking of any fish in Washington waters (within the statutory limits of the state of Washington) and the taking of shellfish or other sea or inland water foods or products, are extracting activities. These activities often include the removal of meat from the shell and the icing of fish or sea products ((by the person catching or taking them are extracting activities. As explained in subsection (2)(a), a person taking fish, shellfish, or other sea or inland water food or product cultivated or raised)).

(A) A person growing, raising, or producing a product of aquaculture as defined in RCW 15.85.020 on the person's own land or on land in which the person has a present right of possession is considered a farmer. RCW 82.04.213.

((The filleting, steaking, or)) (B) Cleaning (removal of the head, fins, or viscera) ((ef)), filleting, and/or steaking fish are manufacturing activities. The cooking of fish or seafood is also a manufacturing activity. Refer to RCW 82.04.260 and WAC 458-20-136 for information regarding the special B&O tax rate/classification that applies to the manufacturing of seafood products that remain in a raw, raw frozen, or raw salted state.

(C) The removal of meat from the shell or the icing of fish or sea products, when the activity is performed in conjunction with and at the site where manufacturing takes place (e.g., cooking the fish or seafood), is considered a part of the manufacturing operation.

(3) **Tax-reporting responsibilities for income received by extractors.** ((Persons who extract natural products in this state)) Extractors are subject to the extracting B&O tax upon the value of the extracted products. (See WAC 458-20-112 regarding "value of products.") Extractors who sell the products at retail or wholesale in this state are subject to either the retailing or wholesaling B&O tax, as the case may be. In such cases, the extractor must report under both the "production" (extracting) and "selling" (wholesaling or retailing) classifications of the B&O tax, and claim a tax credit under the multiple activities tax credit (MATC). See also WAC 458-20-19301 (Multiple activities tax credits) for a more detailed explanation of the MATC reporting requirements.

For example, Corporation quarries rock without further processing. Corporation sells and delivers the rock to Landscaper, who is located in Washington. Landscaper provides Corporation with a resale certificate. Corporation should report under both the extracting and wholesaling B&O tax classifications, and claim a MATC per WAC 458-20-19301. Had Corporation delivered the quarried rock to an out-of-state location, Corporation would have incurred only an extracting B&O tax liability.

(a) **When extractors use their products in a manufacturing process.** Persons who extract products, use these extracted products in a manufacturing process, and then sell the products all within Washington are subject to both "production" taxes (extracting and manufacturing) and the "selling" tax (wholesaling or retailing), and may claim the appropriate credits under the MATC. (See also WAC 458-20-136 on manufacturing.)

For example, Company quarries rock (an extracting activity), crushes and blends the rock (a manufacturing activity), and sells the resulting product at ((wholesale)) retail. The taxable value of the extracted rock is \$50,000 (the amount subject to the extracting B&O tax). The taxable value of the crushed and blended rock is \$140,000 (the amount subject to the manufacturing B&O tax). The crushed and blended rock is sold for \$140,000 (the amount subject to the ((wholesaling)) retailing B&O tax). ((Under the MATC, Company should report \$50,000 subject to the extracting B&O tax, \$140,000 subject to the manufacturing B&O tax, and \$140,000 subject to the wholesaling B&O tax. Company should then claim the appropriate MATC per WAC 458-20-19301.)) Company should compute its tax liability as follows:

(i) **Reporting B&O tax on the combined excise tax return:**

(A) Extracting B&O tax liability of \$242 (\$50,000 x .00484);

(B) Manufacturing B&O tax liability of \$678 (\$140,000 x .00484); and

(C) Retailing B&O tax liability of \$659 (\$140,000 x .00484).

PROPOSED

## (ii) Completing the Multiple Activities Tax Credit (Part II of Schedule C):

<u>Activity which results in a tax credit</u>	<u>Taxable Amount</u>	<u>Business and Occupation Tax Reported</u>					<u>Total Credit</u>
		<u>Extracting</u>	<u>Manufacturing</u>	<u>Wholesaling</u>	<u>Retailing</u>		
Washington extracted products manufactured in Washington	<u>50,000</u>	<u>242</u>	<u>242</u>				<u>242</u>
Washington extracted products sold in Washington							
Washington manufactured products sold in Washington	<u>140,000</u>		<u>678</u>		<u>659</u>	<u>659</u>	
<u>Multiple Activities Tax Credit Subtotal of taxes paid to Washington state</u>							<u>901</u>
							<u>Credit ID 800</u>
							<u>901</u>

(b) **Responsibility to collect retail sales tax.** An extractor making retail sales must collect and remit retail sales tax on all sales to consumers, unless the sale is exempt by law (e.g., see WAC 458-20-244 regarding sales of certain food products). Extractors making wholesale sales must obtain resale certificates from their customers to document the wholesale nature of any transaction. (Refer to WAC 458-20-102 on resale certificates.)

(4) **Tax-reporting responsibilities for income received by extractors for hire.** Persons performing extracting activities for extractors are subject to the extracting for hire B&O tax upon their gross income from those services.

For example, a person removing ore, waste, or overburden at a mining pit for the operator of the mining operation is an extractor for hire. Likewise, a person drilling to locate or provide access to a satisfactory grade of ore at the mining pit for the operator is also an extractor for hire. The gross income derived from these activities is subject to the extracting for hire tax classification.

(5) **Mining or mineral rights.** Royalties or charges in the nature of royalties for granting another the privilege or right to remove minerals, rock, sand, or other natural resource product are subject to the service and other activities B&O tax. The special B&O tax rate provided by RCW 82.04.2907 does not apply because this statute specifically excludes compensation received for any natural ((product)) resource. Refer also to RCW 82.45.035 and WAC 458-61-520 (Mineral rights and mining claims) for more information regarding the sale of mineral rights and the real estate excise tax.

Income derived from the sale or rental of real property, whether designated as royalties or another term, is exempt of the B&O tax.

(6) **Tax liability with respect to purchases of equipment or supplies and property extracted and/or manufactured for commercial or industrial use.** The retail sales tax applies to all purchases of equipment, component parts of equipment, and supplies by persons engaging in extracting or extracting for hire activities unless a specific exemption applies. If the seller fails to collect the appropriate retail sales

tax, the buyer is required to remit the retail sales tax (commonly referred to as "deferred retail sales tax") or use tax directly to the department.

(a) **Exemption available for certain manufacturing equipment.** RCW 82.08.02565 and 82.12.02565 provide retail sales and use tax exemptions for certain machinery and equipment used by manufacturers. While this exemption does not extend to extractors, persons engaged in both extracting and manufacturing activities should refer to WAC 458-20-13601 for an explanation of how these exemptions may apply to them.

(b) **Property manufactured for commercial or industrial use.** Persons manufacturing tangible personal property for commercial or industrial use are subject to both the manufacturing B&O and use taxes upon the value of the property manufactured, unless a specific exemption applies. (See also WAC 458-20-134 on commercial or industrial use.)

If the person also extracts materials used in the manufacturing process, the extracting B&O tax is due on the value of the extracted materials and a MATC may be taken. For example, Quarry extracts rock, crushes the rock into desired size, and then uses the crushed rock in its parking lot. The use of the crushed rock by Quarry in its parking lot is a commercial or industrial use. Quarry is subject to the extracting and manufacturing B&O taxes and may claim a MATC. Quarry is also responsible for remitting use tax on the value of the crushed rock applied to the parking lot.

WSR 03-04-049  
WITHDRAWAL OF PROPOSED RULES  
PUGET SOUND  
CLEAN AIR AGENCY  
[Filed January 29, 2003, 11:38 a.m.]

WSR 03-01-107

This letter is notification that the Puget Sound Clean Air Agency board of directors has elected to withdraw the subject

proposal, which was filed on December 18, 2002. This proposal was to amend Regulation I, Article 2 regarding SEPA Substantive Authority.

If you have any questions, please call David S. Kircher at (206) 689-4050.

David S. Kircher  
Manager, Air Resources

### **WSR 03-04-070**

#### **PROPOSED RULES**

#### **WASHINGTON STATE PATROL**

[Filed February 3, 2003, 10:03 a.m.]

##### **Original Notice.**

Preproposal statement of inquiry was filed as WSR 02-24-003.

Title of Rule: Chapter 446-75 WAC, DNA identification.

Purpose: To expand the definition of a convicted felon in the WAC from those adults and juveniles convicted of a sex offense or a violent offense to those adults and juveniles convicted of any felony as well as the three misdemeanor offenses of stalking, harassment and communicating with a minor for immoral purposes.

Statutory Authority for Adoption: RCW 43.43.759.

Summary: This revised WAC specifies who is responsible for and in what time frame the collection of the convicted felon sample must be done. It specifically allows the use of DNA identification data to identify human remains or missing persons. It also gives the Washington State Patrol Crime Laboratory the discretion to deny a request for expungement.

Reasons Supporting Proposal: Improved case resolution and criminal apprehension.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Ms. Lynn McIntyre, Seattle Crime Laboratory, (206) 262-6020.

Name of Proponent: Washington State Patrol, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The rule has to do with DNA identification, a DNA databank, and DNA expungement. The purpose of this revision is to expand the number of felons in the databank to increase their apprehension as felons often commit more than one serious crime.

Proposal Changes the Following Existing Rules: Change to the definitions of convicted felon and biological sample. Additional identification usage for human remains or missing persons, and clarity on who takes the samples.

No small business economic impact statement has been prepared under chapter 19.85 RCW. Part of the criminal justice process not involving small business.

RCW 34.05.328 does not apply to this rule adoption.

Hearing Location: WSP Crime Laboratory, Large Conference Room, 2203 Airport Way South, Suite 250, Seattle, WA 98134, on March 18, 2003, at 9 a.m.

Assistance for Persons with Disabilities: Contact Lynn McIntyre by March 14, 2003.

Submit Written Comments to: Ms. Lynn McIntyre, 2203 Airport Way South, Suite 250, Seattle, WA 98134, fax (260) 262-6033, by March 14, 2003.

Date of Intended Adoption: March 19, 2003.

January 31, 2003

Ronal W. Serpas

Chief

**PROPOSED**

#### **AMENDATORY SECTION** (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

**WAC 446-75-010 Definitions.** (1) "DNA" wherever used in this chapter shall mean deoxyribonucleic acid.

(2) "Convicted felon" wherever used in this chapter shall mean ((~~every individual convicted on or after July 1, 1990 in a Washington superior court of a felony defined as a sex offense under RCW 9.94A.030 (29)(a) or a violent offense as defined in RCW 9.94A.030(32))~~));

(a) Every individual convicted after July 1, 1990, of a felony defined as a sex or violent offense under RCW 9.94A.030;

(b) Every individual convicted on or before July 1, 1990, of a felony defined as a sex or violent offense under RCW 9.94A.030, who is still incarcerated on or after July 25, 1999;

(c) Every juvenile adjudicated guilty after July 1, 1994, of a felony defined as a sex or violent offense under RCW 9.94A.030 or an equivalent juvenile offense;

(d) Every juvenile adjudicated guilty on or before July 1, 1994, of a felony defined as a sex or violent offense under RCW 9.94A.030 or an equivalent juvenile offense, who is still incarcerated on or after July 25, 1999;

(e) Every adult or juvenile convicted of a felony, stalking under RCW 9A.46.100, harassment under RCW 9A.46.020, or communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense, on or after July 1, 2002;

(f) Every adult or juvenile convicted of a felony, stalking under RCW 9A.46.100, harassment under RCW 9A.46.020, or communicating with a minor for immoral purposes under RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense, before July 1, 2002, who is still incarcerated on or after July 1, 2002.

(3) "DNA identification" wherever used in this chapter shall mean the identification of a particular individual from the chemical structure of the DNA contained in cells of the human body.

(4) "Biological sample" wherever used in this chapter means a buccal swab (a swabbing of the inside of the mouth between the cheek and gum). The Washington state patrol crime laboratory division will supply a buccal swab collection kit to any agency responsible for collecting convicted felon samples for DNA typing. If there is a reason that a buccal swab cannot be obtained, a bloodstain collected by a finger stick may be taken from the individual.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

**WAC 446-75-020 Purpose.** The purpose of this chapter is to provide procedures for the operation of DNA identification systems as required by RCW 43.43.752 through 43.43.758, and to prohibit the improper use of DNA identification data as required by RCW 43.43.759.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

**WAC 446-75-030 Purposes of DNA identification.** ((1))) DNA identification systems as authorized by chapter 43.43 RCW shall be used only for ((two)) three purposes:

((a))) (1) Identification of possible suspects in criminal investigations((, and (b)));

(2) Convicted felon identification databanking; and

(3) Identification of human remains or missing persons. Nothing in this section prohibits the submission of results derived from the biological samples to the Federal Bureau of Investigation combined DNA index system.

((2)) DNA identifications made in response to a criminal investigation shall not be entered into any permanent or temporary databank. Such results shall be returned to the requesting agency.))

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

**WAC 446-75-060 Collection of ((blood)) biological sample for DNA databank—Procedures—Time frame.** (1) The collection, preservation, and shipment of blood samples obtained from convicted felons pursuant to RCW 43.43.754 for the convicted felon databank program shall be in conformance with the "Protocol for the Collection of ((Blood)) Biological Sample for the Convicted Felon DNA Program" as prepared by the Washington state patrol crime laboratory division. Copies of the current protocol may be obtained from the Washington State Patrol Crime Laboratory Division, Olympia, WA.

((If the convicted felon is sentenced to one year or less in jail, the blood sample will be drawn by the county no later than 60 days from the date of conviction or prior to release, whichever comes first. If the convicted felon will spend no time in jail due to time already served, probation or other sentencing by the court, the blood shall be drawn prior to release.))

((If the convicted felon is sentenced to more than one year in jail the sample will be drawn within 120 days after transfer to the state correctional institution by the department of corrections.)) If the convicted felon does not serve a term of confinement in a facility operated by the department of corrections or the department of social and health services, and does serve a term of confinement in a city or county jail facility, officials at the city or county jail facility shall be responsible for obtaining the biological sample either as part of the intake process if the person is convicted on or after July 1, 2002, or within a reasonable time after July 1, 2002, but

prior to the person's release, if the person was incarcerated before July 1, 2002.

((b) If the convicted felon serves a term of confinement in a facility operated by the department of corrections or the department of social and health services, officials at the facility shall be responsible for obtaining the biological sample either as part of the intake process if the person is convicted on or after July 1, 2002, or within a reasonable time after July 1, 2002, but prior to the person's release, if the person was incarcerated before July 1, 2002.

((c) If the convicted felon is sentenced on or after July 1, 2002, and does not serve a term of confinement in a city, county or state facility, the local police department or sheriff's office shall be responsible for obtaining the biological sample after sentencing.

(2) Results from DNA identifications made from blood samples obtained from convicted felons under RCW 43.43.754 shall be submitted to the chief of the Washington state patrol and entered into the Washington state patrol DNA databank. Such results shall reside in the databank until expungement pursuant to WAC 446-75-070.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

**WAC 446-75-070 Expungement of DNA data.** (1) A person desiring the destruction of his DNA identification data from a DNA databank shall make his request therefor on a form furnished by the chief of the Washington state patrol. The request shall be mailed or delivered to the Washington State Patrol Crime Laboratory Division, Olympia, WA.

(2) The request shall be completed, signed by the person whose record is sought to be expunged. The signature shall be notarized. It shall include the address of the applicant, the printed name and the address of the witness to the applicant's signature and such other information requested on the application as identifies the applicant and the offense for which the request of expungement is made.

(3) The request shall include proof that the person making the request for expungement is the same person whose DNA data is sought to be expunged. Such proof shall include a sworn statement of identity. When requested by the patrol, fingerprints and a blood sample shall also be required from the applicant.

(4) The request shall include proof that the person making the request has no record as a convicted felon under RCW 43.43.754 or has other lawful grounds for expungement. Such proof shall include a sworn statement from the applicant, and not-guilty or released without conviction documentation from such criminal charges. Where the finding or release is based on an order of a court, the applicant shall furnish a certified true copy of the court order.

((5) The Washington state patrol crime laboratory has discretion to deny the request for expungement.

AMENDATORY SECTION (Amending WSR 91-11-046, filed 5/14/91, effective 6/14/91)

**WAC 446-75-080 DNA identification data—Prohibitions.** The use of any data obtained from DNA identification

procedures is prohibited for any research or other purpose not related to a criminal investigation, to identification of human remains or missing persons, or to improving the operation of the system established by the Washington state patrol and authorized by RCW 43.43.752 through 43.43.759.

**WSR 03-04-082  
PROPOSED RULES  
DEPARTMENT OF ECOLOGY**

[Order 02-14—Filed February 3, 2003, 1:36 p.m.]

**Supplemental Notice to WSR 03-01-124.**

Preproposal statement of inquiry was filed as WSR 09-17-02 [02-19-098].

Title of Rule: Chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington.

Purpose: **This supplemental CR-102 is being filed to correct a typo in the statutory authority listed in WSR 03-01-124. On that filing the statutory authority was listed as chapter 90.84 RCW. The correct citation is chapter 90.48 RCW. No other changes were made for this supplemental filing.**

Chapter 173-201A WAC, Water quality standards for surface waters of the state of Washington, these amendments would modify the existing surface water quality standards for Washington. This rule making will propose to revise the surface water quality standards by:

Moving from the current class-based system to a use-based system for designating beneficial uses of waters (for example swimming and aquatic life habitat) in Washington.

- Making changes to criteria (for example temperature and bacteria) for designated uses of the waters.
- Providing more clarity and detail on implementing the regulation, including the state's antidegradation policy.
- Organizing the structure and sections of the regulation to make it easier to use.

Statutory Authority for Adoption: Chapters 90.48 and 90.54 RCW.

Statute Being Implemented: Chapters 90.48 and 90.54 RCW.

Summary: **This supplemental is being filed to correct a typo nothing else has changed.** Changes are proposed to adopt a new use based system, update criteria, clarify antidegradation, and reorganize and clarify the rule.

Reasons Supporting Proposal: **This supplemental is being filed to correct a typo nothing else has changed.** These changes are being undertaken to incorporate new science, provide more detail and clarity on implementing the regulations, and better tailor the criteria assigned to our waters to the characteristic uses that actually exist in those waters.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Susan Braley, Lacey, Washington, (360) 407-6414.

Name of Proponent: Department of Ecology, governmental.

Rule is necessary because of federal law, 40 C.F.R. 131.20.

**Explanation of Rule, its Purpose, and Anticipated Effects: This supplemental is being filed to correct a typo nothing else has changed.** The purpose of this rule amendment is to update water quality standards for surface waters of the state of Washington consistent with public health and public enjoyment, and for the protection of fish, shellfish, and wildlife pursuant to the provisions of chapters 90.54 and 90.48 RCW. Washington's surface water quality standards set limits on pollution in order to protect beneficial uses, such as swimming and fishing. The water quality standards serve as the cornerstone for protecting water quality in the state of Washington, and are implemented through programs that control or affect water quality. The revised standards are intended to reflect the latest scientific information and incorporate new state and federal requirements - all aimed at making our waters clean and safe for humans, fish and wildlife.

Federal regulations require that state water quality standards be reviewed and approved by the United States Environmental Protection Agency (EPA) for compliance with the Clean Water Act prior to their use. EPA must also prepare and submit a biological assessment to the federal fish and wildlife agencies to determine compliance with the Endangered Species Act (ESA). The new water quality standards will not take effect until this process is completed.

**Proposal Changes the Following Existing Rules:** This amendment would make changes to the following areas: The entire rule is impacted by this amendment due to reorganization and clarification with the rule. The rule is now organized into parts to assist the user in finding information more easily. Further, the standards are proposed to be implemented by a use based system rather than a class system. Changes are being proposed to existing criteria for temperature, dissolved oxygen, bacteria, and ammonia, as well as new criteria for agricultural water supplies. The antidegradation section, designed to prevent degradation of water quality, was expanded and clarified. A tools part was added to the rule to provide users with a variety of "tools" that can be used to comply with this regulation.

A small business economic impact statement has been prepared under chapter 19.85 RCW. [See WSR 03-01-124]

A copy of the statement may be obtained by writing to Susan Braley, Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, phone (360) 407-6414, fax (360) 407-6426, e-mail sbra461@ecy.wa.gov.

RCW 34.05.328 applies to this rule adoption. These rule amendments are considered significant legislative in nature, and therefore the documentation necessary to comply with RCW 34.05.328 will be completed.

**Hearing Location: Workshops and Hearings: This supplemental is being filed to correct a typo nothing else has changed. Workshops are still at this time and location. All workshops begin at 6 p.m., public hearings begin at 8 p.m.; Wenatchee, Monday, January 27, 2003, Chelan County Auditorium, 400 Douglas; Spokane, Tuesday, January 28, 2003, Spokane Falls Community College, Student Union Building 17, Lounge AB, 3410 West Fort George Wright**

PROPOSED

Drive; **Pasco**, Wednesday, January 29, 2003, Columbia Basin College, 2600 North 20th Avenue; **Yakima**, Thursday, January 30, 2003, Ecology Central Region Office, 15 West Yakima Avenue, Suite 200; **Bellingham**, Monday, February 3, 2003, Whatcom County Courthouse, 311 Grand Avenue; **Seattle**, Tuesday, February 4, 2003, Seattle Center, Northwest Rooms: Lopez Room, 305 Harrison Street; **Port Angeles**, Wednesday, February 5, 2003, Vern Burton Center, 308 East 4th Street; and **Vancouver**, Thursday, February 6, 2003, Water Resources Center, 4600 S.E. Columbia Way.

Assistance for Persons with Disabilities: Contact Ann Butler at (360) 407-6480. The TTY number is 711 or 1-800-833-6388, TDD (360) 407-6006.

Submit Written Comments to: Susan Braley, Department of Ecology, Water Quality Program, P.O. Box 47600, Olympia, WA 98504-7600, sbra461@ecy.wa.gov, fax (360) 407-6426, by 5:00 p.m. on March 7, 2003.

Date of Intended Adoption: June 2, 2003.

January 31, 2003  
Linda Hoffman  
Deputy Director

**WSR 03-04-089**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed February 4, 2003, 10:31 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 03-01-016.

Title of Rule: WAC 260-48-630 Close of wagering in a race.

Purpose: To amend WAC 260-48-630 to require a commission representative to close wagering for only live racing. Close of wagering during simulcast races shall be the responsibility of the racing association receiving the simulcast signal.

Statutory Authority for Adoption: RCW 67.16.020.

Summary: The Washington Horse Racing Commission shall be responsible to ensure stop betting has occurred during live races in Washington. The racing association receiving the simulcast signal shall ensure stop betting has occurred at the start of simulcast races.

Name of Agency Personnel Responsible for Drafting: Robert J. Lopez, Olympia, Washington, (360) 459-6462; Implementation and Enforcement: Robert M. Leichner, Olympia, Washington, (360) 459-6462.

Name of Proponent: Washington Horse Racing Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of proposed rule is to clarify who has the responsibility to close wagering for a race after which time no parimutuel tickets may be sold for that race. The proposed rule will make it the responsibility of a commission representative to close wagering only during live races con-

ducted in Washington. It shall be the racing association's responsibility to ensure wagering is closed for any simulcast race received by the racing association.

**Proposal Changes the Following Existing Rules:** The current rule implies that a Washington Horse Racing Commission representative shall close wagering at both live and simulcast races. The proposed change clarifies that a Washington Horse Racing Commission representative shall close wagering only for live races conducted in Washington. The racing association receiving the simulcast signal shall close wagering during simulcast races.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not impose any costs upon businesses in the horse racing industry.

RCW 34.05.328 does not apply to this rule adoption. The rule is not subject to this section under RCW 34.05.328 (5)(a).

Hearing Location: Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, (253) 931-3041, on March 13, 2003, at 1:00 p.m.

Submit Written Comments to: Robert M. Leichner, Washington Horse Racing Commission, 6326 Martin Way, #209, Olympia, WA 98516-5578, fax (360) 459-6461, by March 12, 2003.

Date of Intended Adoption: March 13, 2003.  
February 3, 2003  
R. M. Leichner  
Executive Secretary

**AMENDATORY SECTION** (Amending WSR 96-10-014, filed 4/19/96, effective 6/11/96)

**WAC 260-48-630 Closing of wagering in a race.** (1) Coincident with the start of a live race, a commission representative shall close wagering for the race after which time no parimutuel tickets shall be sold for that race.

(2) Coincident with the start of any simulcast race the association shall be responsible to ensure that wagering is closed for the race after which time no parimutuel tickets shall be sold for that race.

(3) (2) The association shall maintain in good order an electrical or other system approved by the commission for locking of parimutuel machines.

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules. The rule published above varies from its predecessor in certain respects not indicated by the use of these markings.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

**WSR 03-04-090**  
**PROPOSED RULES**  
**HORSE RACING COMMISSION**

[Filed February 4, 2003, 10:33 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 03-01-017.

**Title of Rule:** New section WAC 260-72-040 Transmission of simulcast signal to an account wagering facility.

**Purpose:** To allow for the transmission of a live race signal from a class 1 racing association to an account wagering facility only in accordance with RCW 67.16.200(4) and the Interstate Horse Racing Act, 15 U.S.C. sections 3001 to 3007.

**Statutory Authority for Adoption:** RCW 67.16.020.

**Summary:** The rule will allow a class 1 racing association in Washington state to send a simulcast signal of their live races to an account wagering facility only when it complies with RCW 67.16.200(4) and the Interstate Horse Racing Act, 15 U.S.C. sections 3001 to 3007.

**Name of Agency Personnel Responsible for Drafting:** Robert J. Lopez, Olympia, Washington, (360) 459-6462; **Implementation and Enforcement:** Robert M. Leichner, Olympia, Washington, (360) 459-6462.

**Name of Proponent:** Washington Horse Racing Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

**Explanation of Rule, its Purpose, and Anticipated Effects:** The proposed rule will allow for a class 1 racing association as defined in RCW 67.16.200(7) to transmit simulcast of live horse races conducted at its tracks to an account wagering facility outside of the state of Washington only when it complies with RCW 67.16.200(4) and the Interstate Horse Racing Act, 15 U.S.C. sections 3001 to 3007.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The changes will not impose any costs upon businesses in the horse racing industry.

RCW 34.05.328 does not apply to this rule adoption. The rule is not subject to this section under RCW 34.05.328 (5)(a).

**Hearing Location:** Auburn City Council Chambers, 25 West Main, Auburn, WA 98001, (253) 931-3041, on March 13, 2003, at 1:00 p.m.

Submit Written Comments to: Robert M. Leichner, Washington Horse Racing Commission, 6326 Martin Way, #209, Olympia, WA 98516-5578, fax (360) 459-6461, by March 12, 2003.

Date of Intended Adoption: March 13, 2003.

February 3, 2003

R. M. Leichner  
Executive Secretary

## NEW SECTION

**WAC 260-72-040 Transmission of simulcast signal to account wagering facility.** (1) A class 1 racing association may transmit simulcasts of live horse races conducted at its racetrack to an account wagering facility only in accordance with this section, RCW 67.16.200(4), and the interstate horse racing act, 15 U.S.C. Sections 3001 to 3007. In this section,

"class 1 racing association" or "association" means the same as in RCW 67.16.200(7).

(2) In this section, "account wagering facility" or "facility" means a business, other than a racing association, that

(a) Facilitates pari-mutuel wagering on horse races it simulcasts;

(b) Is conducted outside the state of Washington; and

(c) Is licensed or otherwise permitted by law in the state in which it is located.

(3) To transmit a simulcast signal under this section, an association must file an application on a form provided by the commission at least 30 days before the first simulcast race covered by the application. The executive secretary may approve a request to simulcast under this section, subject to rescission of the approval by the commission within 60 days. The application must include at a minimum:

(a) A copy of the written contract or agreement between the class 1 association and the account wagering facility and an assurance that the commission will be notified of any other agreements between the association and the facility pertaining to this section, whether written or oral;

(b) Written approval from the horsemen's association representing the majority of owners and trainers racing at the class 1 racing association;

(c) Written approval from the appropriate regulatory authority in the state where the account wagering facility is located.

(d) A description of how the state where the facility is located regulates and monitors the account wagering facility for compliance with applicable law and for the protection of the public.

(e) Dates of the live race meet for which the application is being made.

(4) The written agreement between the class 1 racing association and the account wagering facility must contain substantially the following terms:

(a) A specific description of the fee structure and fees to be paid to the association under the agreement;

(b) A provision requiring the facility to maintain books, records, documents, data and other evidence relating to the agreement entered into under this section, sufficiently and properly reflecting all operations and financial transactions under the agreement. The facility must retain these records for at least two years after the agreement is terminated. At no additional cost, the facility must make these records available at all reasonable times to inspection, review or audit by authorized commission personnel and shall permit copying of such records at commission expense.

(c) A provision requiring the facility to agree it shall not accept any wager that violates Washington law, including any wager originating in the state of Washington unless affirmatively permitted by Washington law.

(d) If the commission deems the state compliance and monitoring efforts described in WAC 260-72-040 (3)(d) and contained in the application sufficient to ensure the integrity of all operations and financial transactions under the agreement, the commission may, in its sole discretion, waive the requirement in WAC 260-72-040 (4)(b).

(e) The executive secretary may require the association to submit additional information if he or she determines the

additional information is necessary for the commission to effectively evaluate the application.

(f) Approval of an application under this section shall be in effect from the date of approval through the close of the live race meet for which the application is made, unless rescinded by the commission under subsection (3).

(g) The commission's approval of a specific application under this section is not binding on the commission as to any other application.

(6) In determining whether to approve an application under this section, the commission shall consider the following factors:

(a) The impacts on all Washington racing associations, Washington horsemen, and the Washington horse racing industry.

(b) Whether the commission deems the state compliance and monitoring efforts described in WAC 260-72-040 (3)(d) and contained in the application sufficient to ensure the integrity of all operations and financial transactions under the agreement.

(c) Any other factor the commission identifies on the record as relevant to its approval.

(7) No class 1 racing association shall enter a written agreement under this section that is in violation of, or may be construed as waiving any provision of chapter 67.16 RCW, Title 260 WAC or any applicable federal, state or local law.

(8) Every class 1 racing association approved to transmit a simulcast signal under this section shall file with the commission an annual report of its operations under this section, including amounts deposited into the horsemen's purse account under 67.16.200(4) and other financial data as specified by the commission.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

## WSR 03-04-094 PROPOSED RULES PUBLIC DISCLOSURE COMMISSION

[Filed February 4, 2003, 1:11 p.m.]

### Supplemental Notice to WSR 03-01-089.

Preproposal statement of inquiry was filed as WSR 02-15-170.

Title of Rule: Title 390 WAC, rule relating to notifying employees regarding voluntary payroll deductions.

Purpose: To clarify statutory requirements under RCW 42.17.680.

Other Identifying Information: New rule WAC 390-17-110 Notifying employees regarding voluntary payroll deductions.

Statutory Authority for Adoption: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.680.

Summary: Chapter 156, Laws of 2002, requires annual notification of employees from whom wages or salary are withheld. Annual notification must include the nondiscriminatory provision of RCW 42.17.680(2) and a notification about the right to revoke the authorization for payroll deduc-

tions at any time (RCW 42.17.680(3)). The proposed new rule clarifies who sends the notifications of nondiscrimination and revocation to employees, examples of what constitutes written notification, and retention of records.

**Reasons Supporting Proposal:** The proposed new rule will clarify the statutory requirements under RCW 42.17.680 and provide guidance to those entities required to notify employees who have authorized payroll withholding or diversion of wages for political contributions.

**Name of Agency Personnel Responsible for Drafting and Implementation:** Doug Ellis, Public Disclosure Commission, 711 Capitol Way, Room 206, Olympia, (360) 664-2735; and **Enforcement:** Phil Stutzman, Public Disclosure Commission, 711 Capitol Way, Room 206, Olympia, (360) 664-8853.

**Name of Proponent:** Public Disclosure Commission, governmental.

Rule is not necessitated by federal law, federal or state court decision.

**Explanation of Rule, its Purpose, and Anticipated Effects:** The proposed new rule provides guidance to employers, political committees and candidates on the annual notification provisions required to persons that have a portion of wages or salary withheld for the purpose of making one or more contributions to a candidate or a political committee.

The proposed new rule provides direction and clarification to employers, labor organizations, employees and the general public on statutory provisions of RCW 42.17.680.

Proposal does not change existing rules.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The implementation of this rule has minimal impact on small businesses.

RCW 34.05.328 does not apply to this rule adoption. The Public Disclosure Commission (PDC) is not an agency listed in subsection (5)(a)(i) of section 201. Further, the PDC does not voluntarily make section 201 applicable to this rule adoption pursuant to subsection (5)(a)(ii) of section 201, and to date the Joint Administrative Rules Review Committee has not made section 201 applicable to this rule adoption.

Hearing Location: Commission Hearing Room, Evergreen Plaza Building, 711 Capitol Way, Room 206, Olympia, WA, on March 25, 2003, at 9:00 a.m.

Assistance for Persons with Disabilities: Contact Ruthann Bryant by telephone (360) 753-1111.

Submit Written Comments to: Doug Ellis, delli@pdc.wa.gov, Public Disclosure Commission, P.O. Box 40908, Olympia, WA 98504-0908, fax (360) 753-1112, by March 21, 2003.

Date of Intended Adoption: March 25, 2003.

February 4, 2003

Susan Harris

Assistant Director

### NEW SECTION

**WAC 390-17-110 Employee notification of withholding provisions.** (1)(a) By June 30, 2003, and at least annually by June 30 thereafter, employees from whom funds are being withheld for contributions to a candidate or political commit-

tee under RCW 42.17.680 shall be notified, in writing, of the nondiscriminatory provisions of RCW 42.17.680(2). Employee notification shall include the following language:

"No employer or labor organization may discriminate against an officer or employee in the terms or conditions of employment for:

- (i) The failure to contribute to;
- (ii) The failure in any way to support or oppose; or
- (iii) In any way supporting or opposing a candidate, ballot proposition, political party, or political committee."

(b) The written notification shall be provided by the employer or labor organization. The employer or labor organization may agree on which entity shall send the notification.

(2)(a) Pursuant to RCW 42.17.680(3), by June 30, 2003, and at least annually by June 30 thereafter, each employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries shall ensure written notification is directly provided to the employees from whom funds are being withheld for contributions to a candidate or political committee stating that the employee authorization for withholding of wages or salary for such contributions may be revoked at any time. The authorization withholding form is described in WAC 390-17-100.

(b) The written notification shall identify where an employee can submit the revocation, which shall be either:

- (i) The name and address of employer's contact; or
- (ii) The name and address of the person or entity responsible for the disbursement of funds in payment of wages or salaries.

(c) The employee withholding authorization is revoked as of:

- (i) The date specified in the revocation; or
- (ii) If no date is specified, as of the date the written notification is received by the employer or other person or entity responsible for the disbursement of funds in payment of wages or salaries pursuant to RCW 42.17.680.

(3) "Written notification" means notice provided by mail, e-mail, newsletter, payroll insert or other similar direct communication in writing that is addressed to the employee. Posting information on websites, bulletin boards and other passive communication vehicles shall not constitute notification under RCW 42.17.680. If the written notification appears in a newsletter or similar publication, the notice shall be prominently displayed or announced on the first page of the written communication.

(4) Each employer or other person who provides notice pursuant to subsection (1) or (2) of this section shall maintain a copy of the annual notification and a listing of employees notified for a period of no less than five years.

## WSR 03-04-102

### PROPOSED RULES

#### DEPARTMENT OF TRANSPORTATION

[Filed February 4, 2003, 3:57 p.m.]

Original Notice.

**PROPOSED**

Preproposal statement of inquiry was filed as WSR 03-01-114.

Title of Rule: State ferries and toll bridges, WAC 468-300-010, 468-300-020, 468-300-040, 468-300-220, and 468-300-700.

Purpose: The purpose of this rule is to raise the ferry tolls within the specified WACs. The revisions follow the annual review of WSF's farebox revenue needs. Corresponding modifications to the specified WAC preferential loading rules are included.

Statutory Authority for Adoption: RCW 47.56.030, 47.60.326.

Statute Being Implemented: RCW 47.56.030 and 47.60.326.

Summary: The five (5) affected WACs are revised to: (i) Incorporate increased ferry tolls for passengers, vehicles and vessel charters, to meet need for additional farebox revenue; and (ii) modify the corresponding preferential loading rules.

Reasons Supporting Proposal: WSF's need for additional farebox revenue.

Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement: Raymond G. Deardorf, 2911 2nd Avenue, Seattle, WA 98121, (206) 515-3491.

Name of Proponent: Washington State Department of Transportation, Washington State Ferries, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to raise the ferry tolls within the specified WACs. The WAC revisions follow the annual review of WSF's farebox revenue needs.

No major effects are anticipated.

Proposal Changes the Following Existing Rules: The proposed rule revises the subject WACs by increasing the passenger tolls, vehicle tolls and vessel charter rates specified in the WACs.

No small business economic impact statement has been prepared under chapter 19.85 RCW. The department has considered this rule and determined that it does not affect more than 10% of one industry or 20% of all industry.

Section 201, chapter 403, Laws of 1995, does not apply to this rule adoption.

Hearing Location: King County Courthouse, 516 3rd Avenue, 10th Floor, Room 1001, Seattle, WA, on March 20, 2003, at 10:00 a.m. - 12 noon.

Assistance for Persons with Disabilities: Contact Transportation Commission Office, TDD (360) 705-7070.

Submit Written Comments to: Raymond G. Deardorf, Washington State Ferries Planning Director, fax (206) 515-3499, by March 20, 2003.

Date of Intended Adoption: March 20, 2003.

February 4, 2003

Chris R. Rose, Administrator  
Transportation Commission

AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)**WAC 468-300-010 Ferry passenger tolls.**Effective 03:00 a.m. May ((12, 2002)) 4, 2003**PROPOSED**

(ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon Book 20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
Via Passenger Only Ferry *Seattle-Vashon	7.10	3.50	5.60	58.25	93.20	279.60	1,118.40	1.00
Via Passenger Only Ferry Seattle to Bremerton	6.10	3.00	4.60	38.25 <sup>7</sup>	93.20	279.60	1,118.40	1.00
Via Passenger Only Ferry Bremerton to Seattle	4.00	0.50	1.00	N/A	93.20	279.60	1,118.40	N/C
Via Auto Ferry *Fauntleroy-Southworth	4.00	2.00	2.80	30.00	48.00	144.00	576.00	1.00
*Seattle-Bremerton								
*Seattle-Bainbridge Island *Edmonds-Kingston	5.10	2.50	3.60	38.25	61.20	183.60	734.40	1.00
Port Townsend-Keystone	2.00	1.00	1.40	30.00	48.00	144.00	576.00	0.50
*Fauntleroy-Vashon *Southworth-Vashon								
*Pt. Defiance-Tahlequah	3.30	1.60	2.40	24.75	39.60	118.80	475.20	1.00
*Mukilteo-Clinton	3.10	1.50	2.20	23.25	37.20	111.60	446.40	1.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor—Sunday Tuesday	6.80	3.40	4.80	56.00	N/A	N/A	N/A	4.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor—Wednesday Saturday	8.00	4.00	5.60	56.00	N/A	N/A	N/A	4.00
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
International Travel								
Anacortes to Sidney and Sidney to all destinations	12.40	6.20	8.70	N/A	N/A	N/A	N/A	6.00
From Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>5</sup>	4.50	2.25	3.25	N/A	N/A	N/A	N/A	2.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	16.90	8.45	11.95	N/A	N/A	N/A	N/A	8.00))

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User Coupon Book 20 Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
Via Passenger-Only Ferry *Seattle-Vashon	7.40	3.70	6.40	63.20	101.20	303.60	1,214.40	1.00
Via Passenger-Only Ferry Seattle to Bremerton	6.40	3.20	5.40	43.20 <sup>7</sup>	101.20	303.60	1,214.40	1.00
Via Passenger-Only Ferry Bremerton to Seattle	1.00	0.50	1.00	N/A	101.20	303.60	1,214.40	N/C
Via Auto Ferry *Fauntleroy-Southworth	4.20	2.10	3.40	33.60	53.80	161.40	645.60	1.00
*Seattle-Bremerton								
*Seattle-Bainbridge Island *Edmonds-Kingston	5.40	2.70	4.40	43.20	69.20	207.60	830.40	1.00
Port Townsend-Keystone	2.10	1.05	1.70	33.60	53.80	161.40	645.60	0.50
*Fauntleroy-Vashon *Southworth-Vashon								
*Pt. Defiance-Tahlequah	3.50	1.70	2.80	28.00	44.80	134.40	537.60	1.00
*Mukilteo-Clinton	3.20	1.60	2.60	25.60	41.00	123.00	492.00	1.00

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User					Bicycle Surcharge <sup>2,6</sup>
				Coupon Book 20	Rides <sup>1</sup>	Monthly Pass <sup>5</sup>	Quarterly Pass <sup>5</sup>	Annual Pass <sup>5</sup>	
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sun- day-Tuesday	8.00	4.00	6.40		57.20	N/A	N/A	N/A	2.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Saturday	8.80	4.40	7.10		57.20	N/A	N/A	N/A	2.00
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C		N/C	N/A	N/A	N/A	N/C
<i>International Travel</i>									
Anacortes to Sidney and Sidney to all destinations	13.10	6.50	10.50		N/A	N/A	N/A	N/A	4.00
From Lopez, Shaw <sup>1</sup> , Orcas and Friday Harbor to Sidney@	4.75	2.25	4.00		N/A	N/A	N/A	N/A	1.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	17.85	8.75	14.50		N/A	N/A	N/A	N/A	5.00

@ These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$0.10.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>FREQUENT USER COUPONS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Unused coupons will not be eligible for refund or exchange.

<sup>2</sup>BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

<sup>3</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

<sup>4</sup>INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

<sup>5</sup>PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. It is valid for the period printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a ((25)) 20% discount. The quarterly pass is based on 48 days of travel with a ((25)) 20% discount and the annual pass is based on 192 days with a ((25)) 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a ((25)) 20% discount. Passes may be available in monthly, quarterly or annual denominations.

<sup>6</sup>BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

<sup>7</sup>SEATTLE TO BREMERTON PASSENGER ONLY - Riders on Seattle to Bremerton passenger only need to supplement frequent user coupon with an additional surcharge fare of \$1.00 (\$0.50 for Senior/Disabled).

CHILDREN/YOUTH - Children under five years of age will be carried free when accompanied by parent or guardian. Children/youths five through eighteen years of age will be charged the youth fare, which will be ((70)) 80% of full fare rounded to the next multiple of \$0.10.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the ((secretary of transportation)) WSF CEO for a specific discount (((not to exceed 50 percent of full fare))) in order to enhance total revenue and effective only at designated times on designated routes (((not to exceed 100 days per year on any one route))).

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the ((secretary of transportation)) WSF CEO for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. Starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space

**BUNDLED SINGLE FARE BOOKS - WSF** may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the ((second)) first Sunday of May following the date of purchase, after which time the coupons shall not be accepted for passage. Unused coupons are not refundable.

**PEAK SEASON SURCHARGE - A 20%** surcharge shall be applied to passengers from the ((second)) first Sunday in May to the second Sunday in October, except those using frequent user tickets, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

**GROUP OR VOLUME SALES - In order to increase total revenues, WSF** may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

**SPECIAL EVENTS - In order to increase total revenues, WSF** may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

## AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

### **WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.**

Effective 03:00 a.m. May ((+2, 2002)) 4, 2003

((ROUTES	Vehicle Under 20' Incl. Driver One Way	Vehicle w/SF Citizen or Disabled Driver <sup>4</sup>	Vehicle Under 20' Over Height Charge <sup>1</sup>	Frequent User Coupon book 20 Rides <sup>2</sup>	Motorcycles Incl. Driver Stowage <sup>1</sup> One Way@	Motorcycle w/SF Citizen or Disabled Driver Stowage <sup>1</sup> One Way@	Motorcycle Oversize- Charge <sup>1</sup>	Motorcycle Frequent User Ticket book 20 Rides <sup>3</sup> @
Fauntleroy-Southworth								
Port Townsend/Keystone	7.00	6.00	7.00	112.00	3.00	2.00	1.00	48.00
Seattle-Bainbridge Island								
Seattle-Bremerton-Edmonds-Kingston	9.00	7.70	9.00	144.00	3.90	2.60	1.35	62.40
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	11.75	10.05	11.75	94.00	5.00	3.30	1.70	40.00
Mukilteo-Clinton	5.50	4.70	5.50	88.00	2.40	1.60	0.80	38.40
10 Rides - 5 Round Trips								
*Anacortes to Lopez - Sunday-Tuesday	17.00	13.60	17.00	80.00	8.90	5.50	2.10	83.20
*Lopez-Wednesday-Saturday	20.00	16.00	20.00	80.00	10.40	6.40	2.40	83.20
*Shaw-Orcas								
Sunday-Tuesday	20.00	16.60	20.00	94.00	9.50	6.10	2.70	88.80
*Shaw-Orcas								
Wednesday-Saturday	23.50	19.50	23.50	94.00	11.10	7.10	3.10	88.80
*Friday Harbor								
Sunday-Tuesday	22.50	19.10	22.50	106.00	10.00	6.60	3.20	93.60
*Friday Harbor								
Wednesday-Saturday	26.50	22.50	26.50	106.00	11.70	7.70	3.70	93.60
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	10.25	10.25	10.25	41.00	3.25	3.25	3.25	N/A
International Travel								
Anacortes to Sidney and Sidney to all destinations	33.50	27.30	33.50	N/A	16.70	10.50	4.30	N/A
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	18.50	12.30	33.50	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	9.75	7.50	9.75	N/A	5.50	3.25	1.25	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>7</sup>	2.75	0.50	9.75	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	43.25	34.80	43.25	N/A	22.45	14.00	5.55	N/A))

ROUTES	Vehicle Under 20'		Vehicle Under 20' Over Height Charge <sup>1</sup>		Motorcycle <sup>5</sup>		Motorcycle w/Sr	
	Vehicle Under 20' Incl. Driver One Way	Citizen or Disabled Driver <sup>4</sup>	Citizen or Disabled Driver <sup>4</sup>	Frequent User Coupon book 20 Rides <sup>2</sup>	Incl. Driver Stowage <sup>1</sup> One Way @	Motorcycle Incl. Driver Stowage <sup>1</sup> One Way @	Motorcycle Incl. Driver Stowage <sup>1</sup> One Way @	Motorcycle Ticket book 20 Rides <sup>2</sup> @
<b>Fauntleroy-Southworth</b>								
Port Townsend/Keystone	<u>7.50</u>	<u>6.45</u>	<u>7.50</u>	<u>120.00</u>	<u>3.20</u>	<u>2.15</u>	<u>1.10</u>	<u>51.20</u>
<b>Seattle-Bainbridge Island</b>								
<b>Seattle-Bremerton Edmonds-Kingston</b>	<u>9.50</u>	<u>8.15</u>	<u>9.50</u>	<u>152.00</u>	<u>4.10</u>	<u>2.75</u>	<u>1.40</u>	<u>65.60</u>
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	<u>12.25</u>	<u>10.45</u>	<u>12.25</u>	<u>98.00</u>	<u>5.30</u>	<u>3.50</u>	<u>1.80</u>	<u>42.40</u>
Mukilteo-Clinton	<u>5.75</u>	<u>4.95</u>	<u>5.75</u>	<u>92.00</u>	<u>2.50</u>	<u>1.70</u>	<u>0.90</u>	<u>40.00</u>
<u>10 Rides - 5 Round Trips</u>								
<b>*Anacortes to Lopez - Sunday-</b>								
Tuesday	<u>20.00</u>	<u>15.90</u>	<u>20.00</u>	<u>82.50</u>	<u>10.60</u>	<u>6.50</u>	<u>2.60</u>	<u>87.80</u>
*Lopez -								
Wednesday-Saturday	<u>22.00</u>	<u>17.40</u>	<u>22.00</u>	<u>82.50</u>	<u>11.70</u>	<u>7.10</u>	<u>2.90</u>	<u>87.80</u>
*Shaw, Orcas -								
Sunday-Tuesday	<u>23.50</u>	<u>19.50</u>	<u>23.50</u>	<u>97.50</u>	<u>11.30</u>	<u>7.30</u>	<u>3.30</u>	<u>93.80</u>
*Shaw, Orcas -								
Wednesday-Saturday	<u>26.00</u>	<u>21.60</u>	<u>26.00</u>	<u>97.50</u>	<u>12.50</u>	<u>8.10</u>	<u>3.70</u>	<u>93.80</u>
*Friday Harbor -								
Sunday-Tuesday	<u>26.50</u>	<u>22.50</u>	<u>26.50</u>	<u>109.75</u>	<u>11.90</u>	<u>7.90</u>	<u>3.90</u>	<u>99.00</u>
*Friday Harbor -								
Wednesday-Saturday	<u>29.25</u>	<u>24.85</u>	<u>29.25</u>	<u>109.75</u>	<u>13.20</u>	<u>8.80</u>	<u>4.40</u>	<u>99.00</u>
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	<u>11.25</u>	<u>11.25</u>	<u>11.25</u>	<u>45.00</u>	<u>3.50</u>	<u>3.50</u>	<u>3.50</u>	<u>N/A</u>
<b>International Travel</b>								
Anacortes to Sidney and Sidney to all destinations	<u>35.25</u>	<u>28.65</u>	<u>35.25</u>	<u>N/A</u>	<u>17.60</u>	<u>11.00</u>	<u>4.50</u>	<u>N/A</u>
<b>Travelers with advanced reservations (\$15 fee)</b>								
Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	<u>20.25</u>	<u>13.65</u>	<u>35.25</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney	<u>10.25</u>	<u>7.75</u>	<u>10.25</u>	<u>N/A</u>	<u>6.25</u>	<u>3.75</u>	<u>1.50</u>	<u>N/A</u>
<b>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>7</sup></b>	<u>3.25</u>	<u>0.75</u>	<u>10.25</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	<u>N/A</u>
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>8</sup>	<u>45.50</u>	<u>36.40</u>	<u>45.50</u>	<u>N/A</u>	<u>23.85</u>	<u>14.75</u>	<u>6.00</u>	<u>N/A</u>

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overweight charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>FREQUENT USER COUPONS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage. Unused coupons will not be eligible for refund.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and

such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

<sup>5</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

<sup>6</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

<sup>7</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Car pools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

#### AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

#### WAC 468-300-040 Oversize vehicle ferry tolls.

Effective 03:00 a.m. May ((12, 2002)) 4, 2003

ROUTES	((Oversize Vehicle Ferry Tolls))													
	Overall Unit Length Including Driver													
	20'	20'	To	To	Under	Under	30'	To	40'	50'	60'	To and include	70'	Cost Per Ft-Over 80'
High	High						76"	76"	Under	To Under	To Under	To Under	70'	@
Fauntleroy-Southworth														
Port Townsend/Keystone	10.50	21.00		28.00			35.00		42.00		49.00	56.00	0.70	
Seattle-Bainbridge Island														
Seattle/Bremerton														
Edmonds-Kingston	13.50	27.00		36.00			45.00		54.00		63.00	72.00	0.90	
*Fauntleroy-Vashon														
*Southworth-Vashon														
*Pt. Defiance-Tahlequah	16.50	35.25		47.00			58.75		70.50		82.25	94.00	1.10	
Mukilteo-Clinton	8.25	16.50		22.00			27.50		33.00		38.50	44.00	0.55	
*Anacortes-Lopez <sup>2</sup>														
*Shaw,Orcas														
*Friday Harbor-Sunday Tuesday	30.00	60.00		80.00			100.00		120.00		140.00	160.00	2.00	
*Anacortes-Lopez <sup>3</sup>														
*Shaw,Orcas														
*Friday Harbor-Wednesday Saturday	35.25	70.50		94.00			117.50		141.00		164.50	188.00	2.35	
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	15.50	30.75		41.00			51.25		61.50		71.75	82.00	N/A	

**PROPOSED**

((Oversize Vehicle Ferry Tolls)  
Overall Unit Length - Including Driver

ROUTES	20'		20'		30'		30'		40'		50'		60'		70'		Cost Per Ft. Over 80' @
	To <u>Under</u>	To <u>Under</u>	To <u>Under</u>	To <u>Under</u>	To Under 40'	To Under 50'	To Under 60'	To Under 70'	To and include 80'	To and include 80'	To Under 60'	To Under 70'	To Under 70'	To and include 80'	To and include 80'		
	High	High	High														
<b>International Travel</b>																	
Anacortes to Sidney and Sidney to all destinations	50.25	100.50	134.00	167.50	201.00	234.50	268.00	3.35									
Travelers with advanced reservations (\$15 fee)																	
Anacortes to Sidney and Sidney to all destinations <sup>5</sup>	35.25	85.50	119.00	152.50	186.00	219.50	253.00	3.35									
Lopez, Shaw, Orcas and Friday Harbor to Sidney	14.75	29.25	39.00	48.75	58.50	68.25	78.00	1.00									
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>6</sup>	7.75	22.25	32.00	41.75	51.50	61.25	71.00	1.00									
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>4</sup>	65.00	129.75	173.00	216.25	259.50	302.75	346.00	4.35))									

Oversize Vehicle Ferry Tolls<sup>1</sup>  
Overall Unit Length - Including Driver

ROUTES	20'		20'		30'		30'		40'		50'		60'		70'		Cost Per Ft. Over 80' @
	To <u>Under</u>	To <u>Under</u>	To <u>Under</u>	To <u>Under</u>	To Under 40'	To Under 50'	To Under 60'	To Under 70'	To and include 80'	To and include 80'	To Under 60'	To Under 70'	To Under 70'	To and include 80'	To and include 80'		
	High	High	High														
<b>Fauntleroy-Southworth</b>																	
Port Townsend/Keystone	11.25	22.50	30.00	37.50	45.00	52.50	60.00	0.80									
Seattle-Bainbridge Island																	
Seattle/Bremerton																	
Edmonds-Kingston	14.25	28.50	38.00	47.50	57.00	66.50	76.00	1.00									
*Fauntleroy-Vashon																	
*Southworth-Vashon																	
*Pt. Defiance-Tahlequah	18.50	36.75	49.00	61.25	73.50	85.75	98.00	1.30									
Mukilteo-Clinton	8.75	17.25	23.00	28.75	34.50	40.25	46.00	0.60									
*Anacortes to Lopez - Sunday-Tuesday	30.00	60.00	80.00	100.00	120.00	140.00	160.00	2.00									
*Anacortes to Shaw, Orcas - Sunday-Tuesday	35.25	70.50	94.00	117.50	141.00	164.50	188.00	2.40									
*Anacortes to Friday Harbor - Sunday-Tuesday	35.25	70.50	94.00	117.50	141.00	164.50	188.00	2.40									
*Anacortes to Lopez - Wednesday-Saturday	35.25	70.50	94.00	117.50	141.00	164.50	188.00	2.35									
*Anacortes to Shaw, Orcas - Wednesday-Saturday	39.00	78.00	104.00	130.00	156.00	182.00	208.00	2.60									
*Anacortes to Friday Harbor - Wednesday-Saturday	39.00	78.00	104.00	130.00	156.00	182.00	208.00	2.60									
Between Lopez, Shaw, Orcas and Friday Harbor <sup>2</sup>	17.00	33.75	45.00	56.25	67.50	78.75	90.00	N/A									
<b>International Travel</b>																	
Anacortes to Sidney and Sidney to all destinations	53.00	105.75	141.00	176.25	211.50	246.75	282.00	3.60									

ROUTES	<u>Oversize Vehicle Ferry Tolls<sup>1</sup></u>												
	<u>Overall Unit Length - Including Driver</u>												
	<u>20'</u>	<u>20'</u>	<u>To</u>	<u>To</u>	<u>Under</u>	<u>Under</u>	<u>30'</u>	<u>To</u>	<u>40'</u>	<u>50'</u>	<u>60'</u>	<u>70'</u>	<u>To and</u>
	<u>Under</u>	<u>Over</u>	<u>Under</u>	<u>Over</u>	<u>To</u>	<u>To</u>	<u>Under</u>	<u>To Under</u>	<u>To Under</u>	<u>To Under</u>	<u>To under</u>	<u>include</u>	<u>Cost Per Ft.</u>
	<u>7'6"</u>	<u>7'6"</u>	<u>Under</u>	<u>High</u>	<u>40'</u>	<u>High</u>	<u>Under</u>	<u>50'</u>	<u>60'</u>	<u>70'</u>	<u>80'</u>	<u>Over 80'</u>	<u>@</u>
<u>Travelers with advanced reservations (\$15 fee)</u>													
<u>Anacortes to Sidney and Sidney to all destinations<sup>4</sup></u>	<u>38.00</u>	<u>90.75</u>	<u>126.00</u>	<u>161.25</u>	<u>196.50</u>	<u>231.75</u>	<u>267.00</u>	<u>3.60</u>					
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>													
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>3</sup></u>	<u>8.50</u>	<u>23.75</u>	<u>34.00</u>	<u>44.25</u>	<u>54.50</u>	<u>64.75</u>	<u>75.00</u>	<u>1.10</u>					
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>3</sup></u>	<u>68.50</u>	<u>136.50</u>	<u>182.00</u>	<u>227.50</u>	<u>273.00</u>	<u>318.50</u>	<u>364.00</u>	<u>4.70</u>					

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>OVERTSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

((<sup>2</sup>STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24 hour period.

)<sup>3</sup>)<sup>2</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

((<sup>4</sup>))<sup>3</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

((<sup>5</sup>))<sup>4</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 non-refundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a \$50.00 participation fee (per schedule season) plus \$1.00 per reserved one-way trip will be charged. Fees will be collected when reservations are confirmed.

((<sup>6</sup>))<sup>5</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 non-refundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations a \$50.00 participation fee (per schedule season) plus \$1.00 per reserved one-way trip will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge of 25% shall apply to all oversize vehicles, except for Anacortes to Lopez, Shaw, Orcas, and Friday Harbor ((and international travel)). The senior citizen discount shall apply to the driver of an oversize vehicle. ((A 22% surcharge shall be applied on fares for the Sidney-B.C. route.)) A 35% surcharge will apply to oversized vehicles traveling from Anacortes to Lopez, Shaw, Orcas and Friday Harbor.

SENIOR CITIZEN DISCOUNTS - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

PENALTY CHARGES - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

#### ((DISCOUNT FROM REGULAR TOLL

Oversize vehicles making 12 or more, one way crossings per week (Sunday thru Saturday) will qualify for a 15% discount from the regular ferry tolls.))

GROUP OR VOLUME SALES - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

SPECIAL EVENTS - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

EMERGENCY TRIPS DURING NONSERVICE HOURS - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

#### BULK NEWSPAPERS - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be

transported between ferry terminals on regular scheduled sailings.

**EXPRESS SHIPMENTS** - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

**MEDICAL SUPPLIES** - A flat handling charge of \$5.00 per shipment is charged.

**DISCLAIMER** - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

#### AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

**WAC 468-300-220 Calculation of charter rates for vessels owned by the Washington state ferry system.** Pursuant to chapter 323, Laws of 1997, vessels owned by the Washington state ferry system may be made available for charter subject to operational availability. Execution of a charter agreement as set forth in the statute must precede a commitment to charter. The following actual hourly vessel operating costs have been calculated for establishing the rates to be charged for vessel charters from July 1, ((2004)) 2002, through June 30, ((2002)) 2003:

((Vessel Class	Deck-Crew On Overtime	Deck-Crew On Straight Time
<u>Jumbo Mark II</u>	<u>\$ 1,165.37</u>	<u>\$ 967.22</u>
<u>Jumbo</u>	<u>1,124.43</u>	<u>940.48</u>
<u>Super</u>	<u>1,077.82</u>	<u>900.55</u>
<u>Evergreen</u>	<u>810.31</u>	<u>663.60</u>
<u>Issaquah</u>	<u>857.56</u>	<u>710.85</u>
<u>Steel</u>	<u>677.05</u>	<u>560.90</u>
<u>Rhododendron</u>	<u>639.05</u>	<u>522.90</u>
<u>Hiyu</u>	<u>448.04</u>	<u>383.79</u>
<u>Passenger Only</u>	<u>548.85</u>	<u>465.88</u>
<u>Passenger Only Fast Ferry</u>	<u>647.37</u>	<u>561.78</u> )

<u>Vessel Class</u>	<u>Deck Crew</u> <u>On Overtime</u>	<u>Deck Crew</u> <u>On Straight Time</u>
<u>Jumbo Mark II</u>	<u>\$ 1,077.29</u>	<u>\$ 895.07</u>
<u>Jumbo</u>	<u>1,037.39</u>	<u>868.24</u>
<u>Super</u>	<u>999.22</u>	<u>835.96</u>
<u>Evergreen</u>	<u>775.62</u>	<u>640.56</u>
<u>Issaquah</u>	<u>810.73</u>	<u>675.67</u>
<u>Steel</u>	<u>649.13</u>	<u>542.27</u>
<u>Rhododendron</u>	<u>622.13</u>	<u>515.27</u>
<u>Hiyu</u>	<u>439.40</u>	<u>380.09</u>
<u>Passenger Only</u>	<u>521.78</u>	<u>445.57</u>
<u>Passenger Only Fast Ferry</u>	<u>595.00</u>	<u>516.34</u>

The rate for an individual charter will be calculated by:

(1) Multiplying the actual operating cost set forth above for the vessel that is chartered by the number of hours, or fraction thereof, for which the vessel is chartered;

(2) Adding labor costs, mileage and per diem expenses to determine the total actual costs if the particular charter requires a crew callout; and

(3) Increasing the total actual costs calculated pursuant to subsections (1) and (2) of this section by ((fifty percent)) an appropriate profit margin based on market conditions, and rounding to the nearest fifty dollars.

In the case of charters for the transport of hazardous materials, the transporter is required to pay for all legs necessary to complete the charter, even if the vessel is simultaneously engaged in an operational voyage on behalf of the Washington state ferry system.

#### AMENDATORY SECTION (Amending WSR 99-07-059, filed 3/17/99, effective 4/17/99)

**WAC 468-300-700 Preferential loading.** In order to protect public health, safety and commerce; to encourage more efficient use of the ferry system; and to reduce dependency on single occupant private automobiles:

(1) Preferential loading privileges on vessels operated by Washington state ferries (WSF), exempting vehicles from the standard first-come first-served rule, shall be granted in the order set forth below:

(a) An emergency medical vehicle, medical unit, aid unit, or ambulance dispatched to and returning from an emergency or nonemergency call while in service. Up to one additional vehicle may accompany a qualifying emergency medical vehicle or authorized med-evac when going to, but not when returning from, an emergency.

(b) A public police or fire vehicle only when responding to an emergency call, but not when returning from either an emergency or a nonemergency call. However, these vehicles will receive priority loading when they are returning from either an emergency or nonemergency call to Vashon Island or the San Juan Islands.

(c) A public utility or public utility support vehicle only when responding to an emergency call, but not when returning from either an emergency or a nonemergency call.

(d) Where a vehicle occupant states that an extended wait would cause detrimental health risks to a vehicle occupant, that vehicle will be allowed preferential loading whenever the afflicted occupant has provided a medical form certified by a physician that such preferential loading is required.

However, when that vehicle occupant has not submitted the proper medical form, preferential loading will be permissible based upon appropriate terminal staff determination.

(e) Preferential loading may be granted for vehicles carrying passengers needing to attend to a family member subject to risk of physical threat/harm or medical emergencies which requires the customer's timely access to the vessel's destination.

(f) A visibly marked school vehicle owned, operated, or sponsored by a school\*\* when operating on regular schedules preapproved by the WSF or when advance notice is pro-

vided to each affected WSF terminal (\*\*as defined in RCW 28A.150.010 (K-12), RCW 28A.150.020 (public schools), RCW 28A.195.010 (K-12 private schools), and RCW 28B.195.070 (secondary schools)).

(g) A visibly marked, preapproved or regularly scheduled publicly or privately owned public transportation vehicle\*\* operating under a Washington state utilities and transportation commission certificate for public convenience and necessity (\*\*as defined in RCW 81.68.010 (regular route/fixed termini), RCW 81.70.010 (charter and excursion)).

(h) A visibly marked nonprofit or publicly supported transportation vehicle\*\* having provided each affected WSF terminal with advance notice and displaying a WSF permit making it readily identifiable as a public transportation vehicle (\*\*as defined in chapter 81.66 RCW (private, nonprofit special needs)).

(i) A visibly marked and randomly scheduled private for profit transportation vehicle\*\* operating under a Washington state utilities and transportation commission certificate for public convenience and necessity traveling on routes where WSF is the only major access for land-based traffic only when that private for profit transportation vehicle has provided each affected WSF terminal with a preapproved schedule and/or advance notice of its proposed sailing(s), (\*\*as defined in chapter 81.68 RCW (regular route/fixed termini), chapter 81.70 RCW (charter and excursion), chapter 81.66 RCW (private nonprofit special needs), chapter 46.72 RCW (private, for hire)).

(j) A ride-sharing vehicle for persons with special transportation needs\*\* transporting a minimum of three elderly and/or disabled riders or two elderly and/or disabled riders and an attendant displaying WSF ride-share registration program permit only when the operator of that vehicle has provided each affected WSF terminal with advance notice of its proposed sailing(s) (\*\*as defined in RCW 46.74.010 (ride sharing for persons with special transportation needs)).

(k) A visibly marked, public ride-share vehicle\*\* owned by a transit agency and leased out to members of the public through the transit agency's registration program only when the operator of that vehicle has provided each affected WSF terminal with advance notice of its proposed sailing(s) (\*\*as defined in RCW 46.74.010 (commuter ride sharing)).

(l) A privately owned commuter ride-share vehicle\*\* that visibly displays WSF approved identification markings readily identifiable by the public. There must be a minimum of three occupants in any such vehicle to receive preferential loading. Any such ride-share vehicle must be registered and in good standing in the WSF ride-share registration program (\*\*as defined by RCW 46.74.010 (commuter ride sharing)).

(m) Specific to the Anacortes-San Juan Islands routes, a vehicle carrying livestock and traveling on routes where Washington state ferries is the only major access for land-based traffic, where such livestock (i) is raised for commercial purposes and is recognized by the department of agriculture, county agriculture soil and conservation service, as raised on a farm; or (ii) is traveling to participate in a 4H event sanctioned by a county extension agent.

(n) Specific to the Seattle-Bainbridge and Edmonds-Kingston ferry routes, where a vehicle occupant claims that

an extended wait would cause detrimental health risks to their livestock en route to veterinarian services not available in the local community, that vehicle will be allowed preferential loading whenever the vehicle occupant has provided a medical form certified by a veterinarian that such preferential loading is required.

(o) Specific to the Fauntleroy-Vashon, Seattle-Bainbridge, Mukilteo-Clinton, and Anacortes-San Juan ferry routes, any mail delivery vehicle with proper documentation from the U.S. Postal Service showing that such vehicle is in the actual process of delivering mail.

(p) Specific to the Anacortes-San Juan Islands routes, a vehicle 20 ft. and over in length and 10,000 lbs. or greater in weight, provided that the vehicle is carrying or returning from carrying article(s) of commerce for purchase or sale in commercial activity.

(q) Vehicles 20 feet and over in length engaged in the conduct of commerce and/or transportation of passengers where and when WSF management has determined that the sale of vehicle space may promote higher utilization of available route capacity and an increase in revenues.

(r) An oversized or overweight vehicle (20 ft. and over in length, and/or over 8 1/2 ft. in width, and 80,000 lbs. or greater in weight) requiring transport at special times due to tidal conditions, vessel assignments, or availability of space.

((+)) (s) A scheduled bicycle group as determined by WSF only when a representative of that group has provided WSF with advance notice of the proposed travel schedule.

(2) Preferential loading privileges shall be subject to the following conditions:

(a) Privileges shall be granted only where physical facilities are deemed by WSF management to be adequate to allow granting the privilege and achieving an efficient operation.

(b) Subject to specified exceptions, documentation outlining qualifications for preferential loading and details of travel will be required in advance from all agencies, companies, or individuals requesting such privileges.

(c) Privileges may be limited to specified time periods as determined by WSF management.

(d) Privileges may require a minimum frequency of travel, as determined by WSF management.

(e) Privileges may be limited to a specific number of vehicle deck spaces and passenger capacity for any one sailing.

(f) Privileges may require arriving at the ferry terminal at a specified time prior to the scheduled sailing.

(3) To obtain more information about the documentation required and conditions imposed under subsection (2) of this section, call WSF's general information number, (206) 464-6400, or a terminal on a route for which the preferential boarding right is requested.

AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)**WAC 468-300-010 Ferry passenger tolls.**

Effective 03:00 a.m. May ((12, 2002)) 2, 2004

((ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User		Monthly Pass <sup>5</sup>	Quarterly Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle- Surcharge <sup>2,6</sup>
				Coupon Book-20	Rides <sup>1</sup>				
Via Passenger Only Ferry									
*Seattle-Vashon	7.10	3.50	5.60	58.25	93.20	279.60	1,118.40	1.00	
Via Passenger Only Ferry Seattle to Bremerton	6.10	3.00	4.60	38.25 <sup>7</sup>	93.20	279.60	1,118.40	1.00	
Via Passenger Only Ferry Bremerton to Seattle	1.00	0.50	1.00	N/A	93.20	279.60	1,118.40	N/C	
Via Auto Ferry									
*Fauntleroy-Southworth	4.00	2.00	2.80	30.00	48.00	144.00	576.00	1.00	
*Seattle-Bremerton									
*Seattle-Bainbridge Island-									
*Edmonds-Kingston	5.10	2.50	3.60	38.25	61.20	183.60	734.40	1.00	
Port Townsend-Keystone	2.00	1.00	1.40	30.00	48.00	144.00	576.00	0.50	
*Fauntleroy-Vashon									
*Southworth-Vashon-									
*Pt. Defiance-Tahlequah-	3.30	1.60	2.40	24.75	39.60	118.80	475.20	1.00	
*Mukilteo-Clinton	3.10	1.50	2.20	23.25	37.20	111.60	446.40	1.00	
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor—Sun- day-Tuesday	6.80	3.40	4.80	56.00	N/A	N/A	N/A	4.00	
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor— Wednesday-Saturday	8.00	4.00	5.60	56.00	N/A	N/A	N/A	4.00	
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C	
International Travel									
Anacortes to Sidney and Sidney to all destinations	12.40	6.20	8.70	N/A	N/A	N/A	N/A	6.00	
From Lopez, Shaw, Orcas and Friday Harbor to Sidney@	4.50	2.25	3.25	N/A	N/A	N/A	N/A	2.00	
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>3</sup>	16.90	8.45	11.95	N/A	N/A	N/A	N/A	8.00))	

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User	Monthly Pass <sup>2</sup>	Quarterly Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle- Surcharge <sup>2,6</sup>
				Coupon Book 20	Rides <sup>1</sup>			
Via Passenger-Only Ferry								
*Seattle-Vashon	7.70	3.80	6.60	65.60	105.00	315.00	1,260.00	1.00
Via Passenger-Only Ferry Seattle to Bremerton	6.70	3.30	5.60	45.60 <sup>7</sup>	105.00	315.00	1,260.00	1.00
Via Passenger-Only Ferry Bremerton to Seattle	1.00	0.50	1.00	N/A	105.00	315.00	1,260.00	N/C
Via Auto Ferry								
*Fauntleroy-Southworth	4.40	2.20	3.60	35.20	56.40	169.20	676.80	1.00
*Seattle-Bremerton								
*Seattle-Bainbridge Island								
*Edmonds-Kingston	5.70	2.80	4.60	45.60	73.00	219.00	876.00	1.00
Port Townsend-Keystone	2.20	1.10	1.80	35.20	56.40	169.20	676.80	0.50
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	3.70	1.80	3.00	29.60	47.40	142.20	568.80	1.00
*Mukilteo-Clinton	3.40	1.70	2.80	27.20	43.60	130.80	523.20	1.00

PROPOSED

ROUTES	Full Fare	Senior/ Disabled	Youth Fare 18 and under	Frequent User				
				Coupon Book 20 Rides <sup>1</sup>	Monthly Pass <sup>4</sup>	Quarterly Pass <sup>5</sup>	Annual Pass <sup>5</sup>	Bicycle Surcharge <sup>2,6</sup>
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Sunday-Tuesday	8.60	4.30	6.90	61.80	N/A	N/A	N/A	2.00
*Anacortes to Lopez, Shaw, Orcas or Friday Harbor - Wednesday-Saturday	9.50	4.70	7.60	61.80	N/A	N/A	N/A	2.00
Between Lopez, Shaw, Orcas and Friday Harbor <sup>4</sup>	N/C	N/C	N/C	N/C	N/A	N/A	N/A	N/C
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	13.80	6.90	11.10	N/A	N/A	N/A	N/A	4.00
From Lopez, Shaw <sup>1</sup> , Orcas and Friday Harbor to Sidney @	5.00	2.50	4.00	N/A	N/A	N/A	N/A	1.00
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>2</sup>	18.80	9.40	15.10	N/A	N/A	N/A	N/A	5.00

@ These fares rounded to the next multiple of \$.25. All other fares rounded to the next multiple of \$0.10.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>FREQUENT USER COUPONS - Shall be valid only for 90-days from date of purchase after which time the tickets shall not be accepted for passage. Unused coupons will not be eligible for refund or exchange.

<sup>2</sup>BICYCLE SURCHARGE - Is an addition to the appropriate passenger fare.

<sup>3</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the Islands served.

<sup>4</sup>INTER-ISLAND FARES - Passenger fares included in Anacortes tolls.

<sup>5</sup>PASSES - Passenger passes are available for all routes except Anacortes/San Juan Island/Sidney. It is valid for the period printed on the pass and will be presented to Washington state ferries staff whenever a passenger fare is collected. This pass is based on 16 days of passenger travel with a ((25%)) 20% discount. The quarterly pass is based on 48 days of travel with a ((25%)) 20% discount and the annual pass is based on 192 days with a ((25%)) 20% discount. A \$1.00 retail/shipping and handling fee will be added to the price of the pass.

A combination ferry-transit pass may be available for a particular route when determined by Washington state ferries and a local public transit agency to be a viable fare instrument. The WSF portion of the fare is based on 16 days of passenger travel per month at a ((25%)) 20% discount. Passes may be available in monthly, quarterly or annual denominations.

<sup>6</sup>BICYCLE PASS - A bicycle pass is available on all routes except: Anacortes/San Juan Island/Sidney for a \$20.00 annual fee subject to meeting WSF specified conditions. The pass is valid for one year. A cyclist with a valid pass shall have the bicycle surcharge waived.

<sup>7</sup>SEATTLE TO BREMERTON PASSENGER ONLY - Riders on Seattle to Bremerton passenger only need to supplement frequent user coupon with an additional surcharge fare of \$1.00 (\$0.50 for Senior/Disabled).

CHILDREN/YOUTH - Children under five years of age will be carried free when accompanied by parent or guardian. Children/youths five through eighteen years of age will be charged the youth fare, which will be ((70%)) 80% of full fare rounded to the next multiple of \$0.10.

SENIOR CITIZENS - Passengers age 65 and over, with proper identification establishing proof of age, may travel at half-fare passenger tolls on any route where passenger fares are collected.

PERSONS OF DISABILITY - Any individual who, by reason of illness, injury, congenital malfunction, or other incapacity or disability is unable without special facilities or special planning or design to utilize ferry system services, upon presentation of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes a disability may travel at half-fare passenger tolls on any route. In addition, those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and such endorsement shall allow the attendant to travel free as a passenger.

BUS PASSENGERS - Passengers traveling on public transit buses pay the applicable fare. Passengers traveling in private or commercial buses will be charged the half-fare rate.

MEDICARE CARD HOLDERS - Any person holding a Medicare card duly issued to that person pursuant to Title II or Title XVIII of the Social Security Act may travel at half-fare passenger tolls on any route upon presentation of a WSF Disability Travel Permit or a Regional Reduced Fare Permit at time of travel.

PROMOTIONAL TOLLS - A promotional rate may be established at the discretion of the ((secretary of transportation)) WSF CEO for a specific discount ((not to exceed 50 percent of full fare)) in order to enhance total revenue and effective only at designated times on designated routes ((not to exceed 100 days per year on any one route)).

Special passenger fare rate(s) may be established for a pilot program in conjunction with the Central Puget Sound Regional Fare Integration project on ferry route(s) serving King, Pierce, Snohomish and Kitsap counties. The rate(s) may be established at the discretion of the ((secretary of transportation)) WSF CEO for a specific discount not to exceed fifty percent of full fare.

SCHOOL GROUPS - Passengers traveling in authorized school groups for institution-sponsored activities will be charged a flat rate of \$1 per walk-on group or per vehicle of students and/or advisors and staff. Starting September 1, 1999, all school groups require a letter of authorization. Vehicles and drivers will be charged the fare applicable to vehicle size. The special school rate is \$2 on routes where one-point toll systems are in effect. Due to space limitations, authorized school groups will not be permitted to use one of the passenger-only routes without prior WSF approval.

BUNDLED SINGLE FARE BOOKS - WSF may bundle single fare types into multiple trip books as a customer convenience. These books shall be valid only until the ((second)) first Sunday of May

following the date of purchase, after which time the coupons shall not be accepted for passage. Unused coupons are not refundable.

**PEAK SEASON SURCHARGE** - A 20% surcharge shall be applied to passengers from the ((second)) first Sunday in May to the second Sunday in October, except those using frequent user tickets, on the Anacortes to Lopez, Shaw, Orcas and Friday Harbor routes.

**GROUP OR VOLUME SALES** - In order to increase total revenues, WSF may develop full fare or discounted customer packages or bundle single fare types into multiple trip books or offer passes

for high volume or group users. In pricing these packages, WSF will have discretion to set appropriate volume discounts based on a case-by-case basis.

**SPECIAL EVENTS** - In order to increase total revenues, WSF may develop, create or participate in special events that may include, but not be limited to, contributing or packaging discounted fares in exchange for the opportunity to participate in the income generated by the event.

### AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

#### **WAC 468-300-020 Vehicle under 20', motorcycle, and stowage ferry tolls.**

Effective 03:00 a.m. May ((12, 2002)) 2, 2004

((ROUTES	Vehicle Under 20'		Vehicle Under 20'-Over- Height Charge <sup>1</sup>	Frequent User Coupon book 20 Rides <sup>3</sup>	Motorcycles Incl. Driver Stowage + One Way@	Motorcycle w/SF		Motorcycle Frequent User Ticket book 20 Rides <sup>2</sup> @
	Vehicle Under 20' Incl. Driver One Way	Vehicle w/SF Citizen or Disabled Driver <sup>4</sup>				Citizen or Disabled Driver Stowage + One Way@	Motorcycle Oversize- Charge <sup>1</sup>	
Fauntleroy-Southworth								
Port Townsend/Keystone	7.00	6.00	7.00	112.00	3.00	2.00	1.00	48.00
Seattle-Bainbridge Island								
Seattle-Bremerton-Edmonds-Kingston	9.00	7.70	9.00	144.00	3.90	2.60	1.35	62.40
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	11.75	10.05	11.75	94.00	5.00	3.30	1.70	40.00
Mukilteo-Clinton	5.50	4.70	5.50	88.00	2.40	1.60	0.80	38.40
10 Rides 5 Round Trips								
*Anacortes to Lopez-Sunday-Tuesday	17.00	13.60	17.00	80.00	8.90	5.50	2.10	83.20
*Lopez-Wednesday-Saturday	20.00	16.00	20.00	80.00	10.40	6.40	2.40	83.20
*Shaw-Orcas-Sunday-Tuesday	20.00	16.60	20.00	94.00	9.50	6.10	2.70	88.80
*Shaw-Orcas-Wednesday-Saturday	23.50	19.50	23.50	94.00	11.10	7.10	3.10	88.80
*Friday Harbor-Sunday-Tuesday	22.50	19.10	22.50	106.00	10.00	6.60	3.20	93.60
*Friday Harbor-Wednesday-Saturday	26.50	22.50	26.50	106.00	11.70	7.70	3.70	93.60
Between Lopez, Shaw, Orcas and Friday Harbor <sup>5</sup>	10.25	10.25	10.25	41.00	3.25	3.25	3.25	N/A
International Travel								
Anacortes to Sidney and Sidney to all destinations	33.50	27.30	33.50	N/A	16.70	10.50	4.30	N/A
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	18.50	12.30	33.50	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	9.75	7.50	9.75	N/A	5.50	3.25	1.25	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>7</sup>	2.75	0.50	9.75	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>8</sup>	43.25	34.80	43.25	N/A	22.45	14.00	5.55	N/A))

PROPOSED ROUTES	Vehicle Under 20'		Vehicle Under 20' Over Height		Motorcycle <sup>5</sup> Incl. Driver Stowage <sup>1</sup> One Way@	Motorcycle w/Sr Citizen or Disabled Driver Stowage <sup>1</sup> One Way@		Motorcycle Frequent User Ticket book 20 Rides <sup>2</sup> @
	Vehicle Under 20'	w/Sr Citizen or Disabled Driver <sup>4</sup>	Frequent User Coupon book 20 Rides <sup>2</sup>	Motorcycle Incl. Driver Stowage <sup>1</sup> One Way@		Motorcycle Incl. Driver Stowage <sup>1</sup> One Way@		
	Incl. Driver One Way	Driver <sup>4</sup>	Charge <sup>1</sup>	Charge <sup>1</sup>		Motorcycle Incl. Driver Stowage <sup>1</sup> One Way@		
Fauntleroy-Southworth								
Port Townsend/Keystone	7.75	6.65	7.75	124.00	3.40	2.30	1.20	54.40
Seattle-Bainbridge Island								
Seattle-Bremerton Edmonds-Kingston	10.00	8.55	10.00	160.00	4.30	2.85	1.45	68.80
*Fauntleroy-Vashon								
*Southworth-Vashon								
*Pt. Defiance-Tahlequah	13.00	11.10	13.00	104.00	5.60	3.70	1.90	44.80
Mukilteo-Clinton	6.00	5.15	6.00	96.00	2.60	1.75	0.90	41.60
10 Rides - 5 Round Trips								
*Anacortes to Lopez - Sunday-Tuesday	20.75	16.35	20.75	86.25	11.10	6.70	2.50	92.30
*Lopez - Wednesday-Saturday	23.00	18.20	23.00	86.25	12.30	7.50	2.80	92.30
*Shaw, Orcas - Sunday-Tuesday	25.00	20.60	25.00	104.25	12.00	7.60	3.40	99.80
*Shaw, Orcas - Wednesday-Saturday	27.75	22.95	27.75	104.25	13.30	8.50	3.80	99.80
*Friday Harbor - Sunday-Tuesday	29.25	24.95	29.25	121.00	12.80	8.50	4.20	106.50
*Friday Harbor - Wednesday-Saturday	32.25	27.45	32.25	121.00	14.20	9.40	4.70	106.50
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	12.50	12.50	12.50	50.00	3.75	3.75	3.75	N/A
<i>International Travel</i>								
Anacortes to Sidney and Sidney to all destinations	37.25	30.35	37.25	N/A	18.50	11.60	4.70	N/A
Travelers with advanced reservations (\$15 fee)								
Anacortes to Sidney and Sidney to all destinations <sup>6</sup>	22.25	15.35	37.25	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney	11.00	8.50	11.00	N/A	6.75	4.25	1.75	N/A
Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney <sup>7</sup>	4.00	1.50	11.00	N/A	N/A	N/A	N/A	N/A
Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip) <sup>5</sup>	48.25	38.85	48.25	N/A	25.25	15.85	6.45	N/A

@ These fares rounded to the next multiple of \$0.10. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>SIZE - All vehicles up to 20' in length and under 7'6" shall pay the vehicle under 20' toll. Vehicles up to 20' but over 7'6" in height shall pay an overhead charge of 100% of the vehicle full fare. Motorcycles with trailers, sidecars, or any vehicle licensed as a motorcycle with three or more wheels will pay an oversize motorcycle charge of 100% of the motorcycle full fare. Upon presentation by either the driver or passenger of a WSF Disability Travel Permit, Regional Reduced Fare Permit, or other identification which establishes disability, the height charge will be waived for vehicles equipped with wheel chair lift or other mechanism designed to accommodate the person with disability.

<sup>2</sup>FREQUENT USER COUPONS - Shall be valid only for 90 days from date of purchase after which time the ticket shall not be accepted for passage. Unused coupons will not be eligible for refund.

<sup>3</sup>INTER-ISLAND FARES - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

<sup>4</sup>SENIOR CITIZEN, DISABLED DRIVER OR DISABLED ATTENDANT DRIVER - Half fare discount applies to driver portion of the vehicle-driver fare and only when the driver is eligible. Those persons with disabilities who require attendant care while traveling on the ferries, and are so certified by their physician, may obtain an endorsement on their WSF Disability Travel Permit and

PROPOSED

such endorsement shall allow the attendant, when driving, to have the driver portion of the vehicle fare waived.

<sup>5</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

<sup>6</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 nonrefundable fee when the peak season surcharge is in effect.

<sup>7</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 nonrefundable fee when the peak season surcharge is in effect.

RIDE SHARE VEHICLES - A commuter ride share vehicle which carries five or more persons on a regular and expense-sharing basis for the purpose of travel to and from work or school and which is certified as such by a local organization approved by the Washington state ferry system, may purchase for a \$20 fee, a permit valid for one year valid only during the hours shown on the permit. The \$20.00 fee shall include the driver. Remaining passengers shall pay the applicable passenger fare. Except that the minimum total paid for all passengers in the van shall not be less than four times the applicable passenger fare. Car pools of three or more registered in WSF's preferential loading program must also pay a \$20.00 yearly permit fee.

STOWAGE - Stowage carry-on items including kayaks, canoes and other items of comparable size which are typically stowed on the vehicle deck of the vessel shall be charged at the motorcycle rate. This rate includes the walk-on passenger carrying on the item to be stowed.

#### AMENDATORY SECTION (Amending WSR 02-09-010, filed 4/5/02, effective 5/6/02)

#### **WAC 468-300-040 Oversize vehicle ferry tolls.**

Effective 03:00 a.m. May ((12, 2002)) 2, 2004

((Oversize Vehicle Ferry Tolls)  
Overall Unit Length - Including Driver

ROUTES	20'	20'	Under 30'	Over 76"	30'	Under- 40'	40'	50'	60'	70'	To-and- include 80'	Cost Per Ft. Over 80' @
	To	To			To		To Under 50'	To Under 60'	To under 70'			
Fauntleroy-Southworth												
Port Townsend/Keystone	10.50	21.00	28.00	35.00	42.00	49.00	56.00	63.00	72.00	80.00	88.00	0.70
Seattle-Bainbridge Island-Seattle/Bremerton												
Edmonds-Kingston	13.50	27.00	36.00	45.00	54.00	63.00	72.00	81.00	90.00	99.00	108.00	0.90
*Fauntleroy-Vashon												
*Southworth-Vashon												
*Pt. Defiance-Tahlequah	16.50	35.25	47.00	58.75	70.50	82.25	94.00	106.00	118.00	130.00	142.00	1.10
Mukilteo-Clinton	8.25	16.50	22.00	27.50	33.00	38.50	44.00	50.00	56.00	62.00	68.00	0.55
*Anacortes to Lopez <sup>2</sup>												
*Shaw, Orcas												
*Friday Harbor-Sunday-Tuesday	30.00	60.00	80.00	100.00	120.00	140.00	160.00	180.00	200.00	220.00	240.00	2.00
*Anacortes to Lopez <sup>2</sup>												
*Shaw, Orcas												
*Friday Harbor-Wednesday-Saturday	35.25	70.50	94.00	117.50	141.00	164.50	188.00	212.00	236.00	260.00	284.00	2.35
Between Lopez, Shaw, Orcas and Friday Harbor <sup>3</sup>	15.50	30.75	41.00	51.25	61.50	71.75	82.00	N/A				

PROPOSED ROUTES	<u>((Oversize Vehicle Ferry Tolls<sup>1</sup>)</u> <u>Overall Unit Length - Including Driver</u>									
	<u>20'</u>	<u>20'</u>	<u>To</u>	<u>To</u>	<u>Under</u>	<u>Under</u>	<u>30'</u>	<u>30'</u>	<u>To</u>	<u>40'</u>
	<u>Under</u>	<u>Over</u>	<u>Under</u>	<u>Under</u>	<u>76"</u>	<u>76"</u>	<u>Under</u>	<u>To Under</u>	<u>To Under</u>	<u>To Under</u>
	<u>High</u>	<u>High</u>	<u>40'</u>	<u>50'</u>	<u>60'</u>	<u>70'</u>	<u>To and include</u>	<u>80'</u>	<u>To and include</u>	<u>Cost Per Ft. Over 80'</u>
										@
	<u>International Travel</u>									
	<u>Anacortes to Sidney and Sidney to all destinations</u>	<u>50.25</u>	<u>100.50</u>	<u>134.00</u>	<u>167.50</u>	<u>201.00</u>	<u>234.50</u>	<u>268.00</u>	<u>3.35</u>	
	<u>Travelers with advanced reservations (\$15 fee)</u>									
	<u>Anacortes to Sidney and Sidney to all destinations<sup>5</sup></u>	<u>35.25</u>	<u>85.50</u>	<u>119.00</u>	<u>152.50</u>	<u>186.00</u>	<u>219.50</u>	<u>253.00</u>	<u>3.35</u>	
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	<u>14.75</u>	<u>29.25</u>	<u>39.00</u>	<u>48.75</u>	<u>58.50</u>	<u>68.25</u>	<u>78.00</u>	<u>1.00</u>		
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday Harbor to Sidney<sup>6</sup></u>	<u>7.75</u>	<u>22.25</u>	<u>32.00</u>	<u>41.75</u>	<u>51.50</u>	<u>61.25</u>	<u>71.00</u>	<u>1.00</u>		
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney (round trip)<sup>4</sup></u>	<u>65.00</u>	<u>129.75</u>	<u>173.00</u>	<u>216.25</u>	<u>259.50</u>	<u>302.75</u>	<u>346.00</u>	<u>4.35))</u>		

PROPOSED ROUTES	<u>Oversize Vehicle Ferry Tolls<sup>1</sup>)</u> <u>Overall Unit Length - Including Driver</u>									
	<u>20'</u>	<u>20'</u>	<u>To</u>	<u>To</u>	<u>Under</u>	<u>Under</u>	<u>30'</u>	<u>30'</u>	<u>To</u>	<u>40'</u>
	<u>Under</u>	<u>Over</u>	<u>To</u>	<u>To</u>	<u>76"</u>	<u>76"</u>	<u>Under</u>	<u>To Under</u>	<u>To Under</u>	<u>To Under</u>
	<u>High</u>	<u>High</u>	<u>40'</u>	<u>50'</u>	<u>60'</u>	<u>70'</u>	<u>To and include</u>	<u>80'</u>	<u>To and include</u>	<u>Cost Per Ft. Over 80'</u>
										@
	<u>Fauntleroy-Southworth</u>									
	<u>Port Townsend/Keystone</u>	<u>11.75</u>	<u>23.25</u>	<u>31.00</u>	<u>38.75</u>	<u>46.50</u>	<u>54.25</u>	<u>62.00</u>	<u>0.80</u>	
	<u>Seattle-Bainbridge Island</u>									
	<u>Seattle/Bremerton</u>									
<u>Edmonds-Kingston</u>	<u>15.00</u>	<u>30.00</u>	<u>40.00</u>	<u>50.00</u>	<u>60.00</u>	<u>70.00</u>	<u>80.00</u>	<u>1.00</u>		
<u>*Fauntleroy-Vashon</u>										
<u>*Southworth-Vashon</u>										
<u>*Pt. Defiance-Tahlequah</u>	<u>19.50</u>	<u>39.00</u>	<u>52.00</u>	<u>65.00</u>	<u>78.00</u>	<u>91.00</u>	<u>104.00</u>	<u>1.30</u>		
<u>Mukilteo-Clinton</u>	<u>9.00</u>	<u>18.00</u>	<u>24.00</u>	<u>30.00</u>	<u>36.00</u>	<u>42.00</u>	<u>48.00</u>	<u>0.60</u>		
<u>*Anacortes to Lopez - Sunday-Tuesday</u>	<u>31.25</u>	<u>62.25</u>	<u>83.00</u>	<u>103.75</u>	<u>124.50</u>	<u>145.25</u>	<u>166.00</u>	<u>2.10</u>		
<u>*Anacortes to Shaw, Orcas - Sunday-Tuesday</u>	<u>37.50</u>	<u>75.00</u>	<u>100.00</u>	<u>125.00</u>	<u>150.00</u>	<u>175.00</u>	<u>200.00</u>	<u>2.50</u>		
<u>*Anacortes to Friday Harbor - Sunday-Tuesday</u>	<u>39.00</u>	<u>78.00</u>	<u>104.00</u>	<u>130.00</u>	<u>156.00</u>	<u>182.00</u>	<u>208.00</u>	<u>2.60</u>		
<u>*Anacortes to Lopez - Wednesday-Saturday</u>	<u>35.25</u>	<u>70.50</u>	<u>94.00</u>	<u>117.50</u>	<u>141.00</u>	<u>164.50</u>	<u>188.00</u>	<u>2.40</u>		
<u>*Anacortes to Shaw, Orcas - Wednesday-Saturday</u>	<u>41.75</u>	<u>83.25</u>	<u>111.00</u>	<u>138.75</u>	<u>166.50</u>	<u>194.25</u>	<u>222.00</u>	<u>2.80</u>		
<u>*Anacortes to Friday Harbor - Wednesday-Saturday</u>	<u>43.25</u>	<u>86.25</u>	<u>115.00</u>	<u>143.75</u>	<u>172.50</u>	<u>201.25</u>	<u>230.00</u>	<u>2.90</u>		
<u>Between Lopez, Shaw, Orcas and Friday Harbor<sup>2</sup></u>	<u>18.75</u>	<u>37.50</u>	<u>50.00</u>	<u>62.50</u>	<u>75.00</u>	<u>87.50</u>	<u>100.00</u>	<u>N/A</u>		
<u>International Travel</u>										
<u>Anacortes to Sidney and Sidney to all destinations</u>	<u>56.00</u>	<u>111.75</u>	<u>149.00</u>	<u>186.25</u>	<u>223.50</u>	<u>260.75</u>	<u>298.00</u>	<u>3.80</u>		

**PROPOSED**

ROUTES	<u>Oversize Vehicle Ferry Tolls<sup>1</sup></u>								
	<u>Overall Unit Length - Including Driver</u>								
	<u>20'</u>	<u>20'</u>	<u>30'</u>	<u>To Under</u>	<u>40' To Under</u>	<u>50' To Under</u>	<u>60' To Under</u>	<u>70' To and include</u>	<u>Cost Per Ft. Over 80'</u>
	<u>To</u>	<u>To</u>	<u>Under</u>	<u>Over</u>	<u>To Under</u>	<u>To Under</u>	<u>To Under</u>	<u>80'</u>	<u>@</u>
	<u>Under</u>	<u>Under</u>	<u>30'</u>	<u>76"</u>	<u>40'</u>	<u>50'</u>	<u>60'</u>	<u>70'</u>	
	<u>High</u>	<u>High</u>	<u>76"</u>	<u>High</u>	<u>50'</u>	<u>60'</u>	<u>70'</u>	<u>80'</u>	
<u>Travelers with advanced reservations (\$15 fee)</u>									
<u>Anacortes to Sidney and Sidney to all destinations<sup>4</sup></u>	<u>41.00</u>	<u>96.75</u>	<u>134.00</u>	<u>171.25</u>	<u>208.50</u>	<u>245.75</u>	<u>283.00</u>	<u>3.80</u>	
<u>Lopez, Shaw, Orcas and Friday Harbor to Sidney</u>	<u>16.50</u>	<u>33.00</u>	<u>44.00</u>	<u>55.00</u>	<u>66.00</u>	<u>77.00</u>	<u>88.00</u>	<u>1.10</u>	
<u>Travelers with advanced reservations (\$7 fee) from Lopez, Shaw, Orcas and Friday</u>									
<u>Harbor to Sidney<sup>3</sup></u>	<u>9.50</u>	<u>26.00</u>	<u>37.00</u>	<u>48.00</u>	<u>59.00</u>	<u>70.00</u>	<u>81.00</u>	<u>1.10</u>	
<u>Lopez, Shaw, Orcas and Friday</u>									
<u>Harbor to Sidney (round trip)<sup>3</sup></u>	<u>72.50</u>	<u>144.75</u>	<u>193.00</u>	<u>241.25</u>	<u>289.50</u>	<u>337.75</u>	<u>386.00</u>		

@ These fares rounded to the next multiple of \$0.05. All other fares rounded to the next multiple of \$.25.

\* These routes operate as a one-point toll collection system.

<sup>1</sup>OVERSIZE VEHICLES - Includes all vehicles 20 feet in length and longer regardless of type: Commercial trucks, recreational vehicles, vehicles under 20' pulling trailers, etc. Length shall include vehicle and load to its furthest extension. Overheight charge is included in oversize vehicle toll. Vehicles 11 feet in width or wider pay double the fare applicable to their length. Private and commercial passenger buses or other passenger vehicles pay the applicable oversize vehicle tolls. Public transit buses and drivers shall travel free upon display of an annual permit which may be purchased for \$10.

((<sup>2</sup>STOPOVERS - Tolls collected westbound only. Oversize vehicles traveling westbound from Anacortes may purchase a single intermediate stopover ticket for \$2.50 when first purchasing the appropriate vehicle fare. The stopover is valid for a 24-hour period.)

<sup>3</sup>)<sup>2</sup>INTER-ISLAND - Tolls collected westbound only. Vehicles traveling between islands may request a single transfer ticket good for one transfer at an intermediate island. The transfer may only be obtained when purchasing the appropriate vehicle fare for inter-island travel (westbound at Lopez, Shaw, or Orcas) and is free of charge. Transfers shall be valid for 24 hours from time of purchase.

((<sup>4</sup>))<sup>3</sup>ROUND TRIP - Round trip tickets for international travel available for trips beginning or ending on one of the islands served.

((<sup>5</sup>))<sup>4</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$15 nonrefundable reservation fee. The reservation fee shall be a \$30 non-refundable fee when the peak season surcharge is in effect.

((<sup>6</sup>))<sup>5</sup>RESERVATION FARES - These fares apply only to travelers that have made advanced reservations and paid the \$7 nonrefundable reservation fee. The reservation fee shall be a \$15 non-refundable fee when the peak season surcharge is in effect.

COMMERCIAL VEHICLE RESERVATION FEES - For commercial vehicles traveling with reservations, a \$50.00 participation fee (per schedule season) plus \$1.00 per reserved one-way trip will be charged. Fees will be collected when reservations are confirmed.

PEAK SEASON SURCHARGE - A peak season surcharge of 25% shall apply to all oversize vehicles, except for Anacortes to Lopez, Shaw, Orcas, Friday Harbor ((and international travel)). The senior citizen discount shall apply to the driver of an oversize

vehicle. ((A 22% surcharge shall be applied on fares for the Sidney-B.C. route.)) A 35% surcharge will apply to oversized vehicles traveling from Anacortes to Lopez, Shaw, Orcas and Friday Harbor.

**SENIOR CITIZEN DISCOUNTS** - Discounts of 50% for the driver of the above vehicles shall apply. Senior citizen discount is determined by subtracting full-fare passenger rate and adding half-fare passenger rate.

**PENALTY CHARGES** - Owner of vehicle without driver will be assessed a \$100.00 penalty charge.

#### **((DISCOUNT FROM REGULAR TOLL**

~~Oversize vehicles making 12 or more, one way crossings per week (Sunday thru Saturday) will qualify for a 15% discount from the regular ferry tolls.)~~

**EMERGENCY TRIPS DURING NONSERVICE HOURS** - While at locations where crew is on duty charge shall be equal to the cost of fuel consumed to make emergency trip. Such trips shall only be offered as a result of official requests from an emergency services agency and only in the case of no reasonable alternative.

**BULK NEWSPAPERS** - Per 100 lbs. \$2.20

(Shipments exceeding 60,000 lbs. in any month shall be assessed \$1.10 per 100 lbs.)

Daily Newspapers, in bundles, and medical supplies, to be received and delivered without receipt and subject to owner's risk, will be transported between ferry terminals on regular scheduled sailings.

**EXPRESS SHIPMENTS** - A flat handling charge of \$25.00 per parcel is charged.

(Shipments exceeding 100 lbs. assessed \$8.30 for each 25 lbs. or fraction thereof.)

Express shipments will be handled on scheduled sailings when no other means of shipment is available to shipper. Shipments must be of a size and weight that can easily be handled by carrier's employees.

Carrier reserves the right to refuse shipment of any item. Carrier assumes no liability for loss or damage to any shipment. Minimum rate for any shipment shall be the rate for 100 pounds.

San Juan inter-island express shipments will be handled at \$5.00 per parcel.

**MEDICAL SUPPLIES** - A flat handling charge of \$5.00 per shipment is charged.

**DISCLAIMER** - Under no circumstances does Washington state ferries warrant the availability of ferry service at a given date or time; nor does it warrant the availability of space on board a vessel on a given sailing.

**WSR 03-04-104**  
**PROPOSED RULES**  
**DEPARTMENT OF HEALTH**  
 (Veterinary Board of Governors)  
 [Filed February 5, 2003, 8:59 a.m.]

**Original Notice.**

Preproposal statement of inquiry was filed as WSR 01-21-133.

**Title of Rule:** Animal technician, WAC 246-935-070  
**Examination for registration as animal technician.**

**Purpose:** This proposal will ensure the rules comply with 2000 legislation that changed "animal technician" to "veterinary technician," remove unnecessary language, and change the national exam passing criteria to the national standard.

**Statutory Authority for Adoption:** RCW 18.92.030.

**Statute Being Implemented:** RCW 18.92.030.

**Summary:** The Veterinary Technician Testing Committee has recommended to licensing boards that an individual candidate's passing status on the national exam be based on a criteria-referenced passing score established by the national exam standard setting committee. Language will be changed updating "animal technician" to "veterinary technician" to comply with 2000 legislation. Outdated language will be removed, and language will be added stating applicants must successfully complete the national exam as approved by the board.

**Reasons Supporting Proposal:** To comply with 2000 legislation, make rule language clearer and up to date, and change the national exam passing criteria to the recommended criterion referenced or content based score.

**Name of Agency Personnel Responsible for Drafting, Implementation and Enforcement:** Karen Kelley, Program Manager, 1112 Quince Street, Olympia, WA 98504-7868, (360) 236-4876.

**Name of Proponent:** Department of Health, governmental.

**Rule is not necessitated by federal law, federal or state court decision.**

**Explanation of Rule, its Purpose, and Anticipated Effects:** WAC 246-935-070, this rule requires veterinary technician applicants to pass a national and state exam, and will assure that the public and their animals will be protected.

These proposed changes would assure that the rule is consistent with law, and will improve overall clarity.

**Proposal Changes the Following Existing Rules:** It changes the term "animal technician" to "veterinary technician." It removed outdated language and adds new clarifying language, and changes the passing criteria for the national examination.

A small business economic impact statement has been prepared under chapter 19.85 RCW.

**Small Business Economic Impact Statement**

**I. What do the rule amendments require?** These veterinary technician rule amendments remove unnecessary language and change the national examination passing criteria to the national standard. The passing standard is currently 1.5 standard deviation below the national mean of the criterion population. The national standard is currently a criteria-referenced passing score, which is regarded as more fair and more legally defensible. A candidate's performance is measured against a fixed standard, and is not influenced by the performance of other candidates. The term "animal technician" is being updated to "veterinary technician" as required in 2000 legislation.

**II. What industries are affected?** SIC Industry Code - 0742 Veterinary services, specialties.

Small Companies - 381 businesses and 1,783 employees.

Larger Small Companies - 195 businesses and 3,032 employees.

Average Number of employees for small companies - 4.7.

Average Number of employees for larger small companies - 15.5.

**III. What are the costs?** The rule is being changed to reflect the national standard for scoring of the veterinary technician examination. The Department of Health does not expect any real change in behavior or costs. The estimated cost to veterinary services or veterinary technicians due to this rule amendment is zero. Therefore, there is no cost for small business.

A copy of the statement may be obtained by writing to Karen Kelley, Program Manager, Veterinary Board of Governors, P.O. Box 47868, Olympia, WA 98504-7868, phone (360) 236-4876, fax (360) 664-9077.

RCW 34.05.328 applies to this rule adoption. The rule alters the standard for issuance of a registration.

**Hearing Location:** Department of Health, Creekside Three at CenterPoint, 20435 72nd Avenue South, Suite 200, Kent, WA 98032, phone (253) 395-7731, fax (253) 395-6759, on April 14, 2003, at 1:30 p.m.

**Assistance for Persons with Disabilities:** Contact (360) 236-4841 by April 7, 2003, TDD 711.

**Submit Written Comments to:** Karen Kelley, Program Manager, Veterinary Board of Governors, P.O. Box 47868, Olympia, WA 98504-7868, fax (360) 664-9077, by April 1, 2003.

**Date of Intended Adoption:** May 15, 2003.

December 26, 2002

Karen Kelley  
Program Manager

**AMENDATORY SECTION** (Amending Order 353B, filed 3/30/93, effective 4/30/93)

**WAC 246-935-070 Examination for registration as ((animal)) a veterinary technician.** (1) All applicants shall be required to successfully complete the veterinary techni-

cian national examination as approved by the board, and the Washington state ((veterinary technician)) examination (((a) The national examination shall consist of questions on the following areas—Basic sciences, animal care and management/husbandry (including farm, pet, and research animals) and clinical sciences (including small and large animal patient care). The examination is designed to measure essential job related knowledge at the entry level.

((b) The Washington state examination shall consist of questions pertaining to laws regulating animal technicians and to laws regulating animal health care in the state.) that consists of questions pertaining to the laws and rules regulating technicians.

(2) ((In order to pass examination for registration as an animal technician, the applicant shall attain a minimum grade of)) The passing criteria or score is:

(a) ((1.5 standard deviation below the national mean of the criterion population)) Criteria-referenced passing score on the national examination.

(b) Ninety percent on the Washington state examination.

## WSR 03-04-108 PROPOSED RULES MILITARY DEPARTMENT

[Filed February 5, 2003, 9:35 a.m.]

### Original Notice.

Preproposal statement of inquiry was filed as WSR 02-19-001.

Title of Rule: Replaces existing chapter 118-65 WAC, Enhanced 9-1-1 funding, with new chapter 118-66 WAC, Enhanced 9-1-1 funding.

Purpose: The purpose of this rule is to incorporate changes made to the RCW by HB 2595 (chapter 341) on enhanced 9-1-1 service.

Statutory Authority for Adoption: RCW 38.52.540.

Statute Being Implemented: HB 2595 (chapter 341, Laws of 2002).

Summary: The purpose of new chapter 118-66 WAC is to specify purposes for which moneys collected under the new wireless enhanced 9-1-1 excise tax may be expended as enacted by the 2002 legislature, chapter 341, Laws of 2002 and incorporates existing language in chapter 118-65 WAC in new chapter 118-66 WAC that currently applies to the existing enhanced 9-1-1 excise tax collected on switched access lines.

Reasons Supporting Proposal: This rule making replaces existing rules, and creates new sections to implement RCW 38.52.540 as enacted and signed during the 2002 legislative session.

Name of Agency Personnel Responsible for Drafting: David Griffith, Camp Murray, Building 20, (253) 512-7015; Implementation and Enforcement: Bob Oenning, Camp Murray, Building 20, (253) 512-7011.

Name of Proponent: State 911 Coordinator, government.

Rule is not necessitated by federal law, federal or state court decision.

**Explanation of Rule, its Purpose, and Anticipated Effects:** The current chapter 118-65 WAC defines criteria and eligibility of counties to receive assistance from the state enhanced 9-1-1 account. HB 2595 added a statewide excise tax to be collected from wireless telephone users and to be used to fund the implementation and operation of wireless enhanced 9-1-1 service. New chapter 118-66 WAC that defines the criteria and eligibility of counties to receive assistance from the state enhanced 9-1-1 account for both wireline and wireless enhanced 9-1-1 service replaces the existing chapter 118-65 WAC.

**Proposal Changes the Following Existing Rules:** These changes reflect amendments made to RCW 38.52.010, 38.52.540, 82.14B.020, and 82.14B.030, and the addition of RCW 38.52.501 and 38.52.561.

Delete chapter 118-65 WAC Enhanced 9-1-1 funding in its entirety:

Add chapter 118-66 WAC, Enhanced 9-1-1 funding to included:

- WAC 118-66-010, defines the authority for chapter 118-66 WAC.
- WAC 118-66-020, defines the purpose of chapter 118-66 WAC and the prioritization process for receiving funds.
- WAC 118-66-030, provides definitions for wireline and wireless E9-1-1 service.
- WAC 118-66-040, specifies county eligibility for receiving funds from the enhanced 9-1-1 excise tax.
- WAC 118-66-042, specifies eligibility of radio communication service companies to receive "wireless" funds.
- WAC 118-66-045, specifies eligibility of Washington State Patrol to receive "wireless" funds.
- WAC 118-66-050, specifies which expenses may receive reimbursement from the enhanced 9-1-1 account.
- WAC 118-66-080, specifies conditions for allocating funds from the enhanced 9-1-1 account.
- WAC 118-66-081, specifies the development of an application format for reimbursement.
- WAC 118-66-085, specifies reporting requirements for radio communications service companies.
- WAC 118-66-090, specifies that other state agencies may impact the statewide operation of E9-1-1.

No small business economic impact statement has been prepared under chapter 19.85 RCW. These rules do not impact small businesses.

RCW 34.05.328 does not apply to this rule adoption. Chapter 118-65 WAC and new chapter 118-66 WAC apply to the enforcement of RCW 38.52.540 and 38.52.545.

Hearing Location: Radisson Hotel Seattle Airport, 17001 Pacific Highway South, Seattle, WA 98188, for directions contact Teresa Lewis at (253) 512-7012, on March 28, 2003, at 10:00 a.m. - noon.

Assistance for Persons with Disabilities: Contact Teresa Lewis at (253) 512-7012 or t.lewis@emd.wa.gov, by March 25, 2003, TDD request to be connected to Teresa Lewis at (253) 512-7012.

Submit Written Comments to: David Griffith, Wireless WAC Rule-making Coordinator, Enhanced 9-1-1 Program,

Emergency Management Division, Building 20, TA-20,  
Camp Murray, Washington 98430-5122, fax (253) 512-7202,  
by March 25, 2003.

Date of Intended Adoption: March 28, 2003.

February 4, 2003

Robert G. Oenning  
State E9-1-1 Coordinator

## **Chapter 118-66 WAC**

### **ENHANCED 9-1-1 FUNDING**

#### **NEW SECTION**

**WAC 118-66-010 Authority.** This chapter is promulgated pursuant to the authority granted in RCW 38.52.540 and 38.52.545.

#### **NEW SECTION**

**WAC 118-66-020 Purpose and priorities.** (1) RCW 38.52.540 authorizes the establishment of an enhanced 9-1-1 account in the state treasury and specifies that the funds shall be used only

- (a) To support the statewide coordination and management of the enhanced 9-1-1 system;
  - (b) For the implementation of wireless enhanced 9-1-1 statewide, and
  - (c) To help supplement, within available funds, the operational costs of the system, including:
    - (i) Adequate funding of counties to enable implementation of wireless enhanced 9-1-1 service, and
    - (ii) Reimbursement of radio communications service companies for costs incurred in providing wireless enhanced 9-1-1 service pursuant to negotiated contracts between counties or their agents and the radio communications service companies.
- (2) RCW 38.52.545 provides that the rules defining the purposes for which available enhanced 9-1-1 funds may be expended shall consider the base needs of individual counties for specific assistance, and establishes the following expenditure priorities for such funds:
- (a) To assure that 9-1-1 dialing is operational statewide;
  - (b) To assist counties as necessary to assure they can achieve a basic service level for 9-1-1 operations; and
  - (c) To assist counties as practicable to acquire items of a capital nature appropriate to increasing 9-1-1 effectiveness.

(3) The state enhanced 9-1-1 coordinator, with the advice and assistance of the enhanced 9-1-1 advisory committee, is authorized to enter into statewide agreements to improve the efficiency of enhanced 9-1-1 services for all counties and to specify by rule the operational purposes for which funds, if available, may be expended from the enhanced 9-1-1 account.

(4) The purpose of these rules is to define the criteria and priority for enhanced 9-1-1 fundable items and requirements for eligible entities to receive enhanced 9-1-1 assistance from the state enhanced 9-1-1 account.

#### **NEW SECTION**

**WAC 118-66-030 Definitions.** (1) "**9-1-1 Management Information System**" shall mean equipment that collects, stores and collates 9-1-1 call data into reports and statistics.

(2) "**9-1-1 Voice Network**" shall mean switching systems and circuits which provide the connection between the caller's switching office and the public safety answering point (PSAP).

(3) "**Address**" shall mean the identification of a unique physical location by street name, number, and postal community, latitude, longitude (and, when available, altitude). When applicable, the address may contain the identification of separately-occupied subunits, such as apartment or suite numbers, and where appropriate, other information such as building name or floor number which defines a unique physical location.

(4) "**Advisory Committee**" shall mean the enhanced 9-1-1 advisory committee as established by RCW 38.52.530.

(5) "**Alternate Routing**" shall mean a method of routing 9-1-1 calls to a designated alternate PSAP location when all 9-1-1 lines are busy at the primary PSAP location.

(6) "**ANI/ALI Controllers**" shall mean the stand-alone components that provide control functions for retrieving and interpreting information in the ANI and ALI databases.

(7) "**ANI/ALI Display Equipment**" shall mean the equipment at the PSAP call answering position necessary for the display of Automatic Number Identification and Automatic Location Identification.

(8) "**Automatic Location Identification (ALI)**" shall mean a feature of the enhanced 9-1-1 system by which the name and address associated with the calling party's telephone number (identified by ANI feature) is forwarded to the PSAP for display.

(9) "**Automatic Location Identification (ALI) Database**" shall mean the set of ALI records residing on a computer system at an E9-1-1 Service Provider

(10) "**Automatic Location Identification/Data Management System (ALI/DMS)**" shall mean a system of manual procedures and computer programs used to create, store, and update the data required for automatic location identification in support of enhanced 9-1-1.

(11) "**Automatic Number Identification (ANI)**" shall mean a feature of the enhanced 9-1-1 system that allows for the automatic display of the telephone number used to place a 9-1-1 call.

(12) "**B.01/P.01 Grade of Service**" shall mean a level of service where the probability that one call out of one hundred (one percent) will be blocked during the average busy hour.

(13) "**Call Detail Recorder**" shall mean equipment used to store, record and print ANI/ALI information for 9-1-1 calls.

(14) "**Cell Sector**" shall mean an area, geographically defined according to an RCSC's radio frequency coverage data, consisting of a certain portion or all of the total coverage area of a Cell Site.

PROPOSED

(15) "Cell Site" shall mean an E9-1-1 Service Provider's radio frequency base station that receives calls from wireless customers.

(16) "Computer Aided Dispatch (CAD)" shall mean equipment capable of receiving and disseminating detailed information related to emergency services call taking and dispatching.

(17) "Department" shall mean the Military Department.

(18) "E9-1-1 Mapping Administration" shall mean personnel, hardware, and software necessary to create and maintain map data necessary to interpret Phase I E9-1-1 latitude and longitude (and, when available, altitude), and to display the data on a PSAP call answering position.

(19) "E9-1-1 Service Provider" shall mean a LEC providing the Selective Routing services for county wireline E9-1-1 service.

(20) "Electronic Mail" shall mean a means of delivering text, data, graphics and other electronic media via a private computer network or the internet.

(21) "Emergency Service Number (ESN)" shall mean a number representing an emergency service zone, used to facilitate the selective routing and selective transfer of 9-1-1 calls to the appropriate PSAP.

(22) "Emergency Service Zone (ESZ)" shall mean a geographical area with a combination of designated police, fire, and emergency medical service providers.

(23) "Instant Call Check" shall mean equipment which records 9-1-1 call conversations for immediate playback on demand.

(24) "Language Line Service" shall mean language interpreter services for 9-1-1 calls.

(25) "Local Exchange Company (LEC)" shall mean every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide telephone exchange service or exchange access. Such term does not include the provision of radio communications service.

(26) "Location" has the same definition as "Address" in this section.

(27) "Location Determination Technology (LDT)" shall mean the technology used exclusively to determine position or geographic location using latitude and longitude (and, when available, altitude) of a wireless E9-1-1 caller when the Mobile Switching Center (MSC) starts a call or while the MSC is engaged in a call.

(28) "Logging Recorder" shall mean a device that is capable of time stamping, recording and replaying 9-1-1 call conversations.

(29) "Mapping Display" shall mean equipment capable of displaying 9-1-1 call locations on a map.

(30) "Master Street Address Guide (MSAG)" shall mean a database of street names and address ranges within their associated postal communities defining emergency service zones for 9-1-1 purposes.

(31) "Mobile Directory Number (MDN)" shall mean the telephone number of the mobile handset used to originate the 9-1-1 call.

(32) "Mobile Positioning Center (MPC)" shall mean a point of interface to a wireless network for the Emergency Service Network. The Gateway Mobile Location Center (GMLC) serves as the point of interface to the Global Standard for Mobile Communications (GSM) wireless network. The MPC and GMLC serve as the entity that retrieves, forwards, stores and controls position data within the location network. The MPC/GMLC entity receives position information from the wireless network, forwards it to the Emergency Services Network upon request and coordinates requests for position update.

(33) "Mobile Switching Center (MSC)" shall mean the wireless equivalent of a Switching Office that provides switching functions for wireless calls.

(34) "MSC Phase I Software Capabilities" shall mean software at an MSC that is necessary for the provision of Phase I E9-1-1 Service and is used exclusively this purpose.

(35) "MSC Phase II Software Capabilities" shall mean software at the MSC that is necessary for the provision of Phase II E9-1-1 Service, and is exclusively used for this purpose.

(36) "Multicounty Region" shall mean two or more counties served by a regional PSAP.

(37) "Night Service" shall mean a feature that forwards all 9-1-1 calls routed to a designated PSAP to an alternate directory number preassigned for that PSAP. The alternate directory number may be associated with another PSAP or other alternate destination.

(38) "Phase I 9-1-1 Voice Network" shall mean the dedicated 9-1-1 trunks between an MSC and a Selective Router, and between a Selective Router and PSAPs.

(39) "Phase I Address" shall mean the identification of a Cell Site and Cell Sector from which a 9-1-1 call originates, and includes identification of a Cell Site address, Cell Sector orientation, and/or a text description of the area.

(40) "Phase I ALI Database" shall mean a computer database used to update the MDN information of customer and Cell Site and Cell Sector Information.

(41) "Phase I ALI Data Circuit" shall mean a dedicated 9-1-1 data circuit between an MSC and a Service Control Point (SCP), and between an SCP and an ALI Database.

(42) "Phase I Automatic Location Identification (ALI)" shall mean the MDN information of wireless customers and the Cell Site and Cell Sector Information.

(43) "Phase I E9-1-1 Service" shall mean service that facilitates the selective routing of wireless 9-1-1 Calls and the display of Phase I ALI at the PSAPs.

(44) "Phase I Implementation Plan" shall mean a plan of an RCSC for implementation of Phase I E9-1-1 Service in a county or counties in Washington State, including, but not limited to: Phase I E9-1-1 Service activation date; network flowchart (including the Company's relevant MSCs); specification of the technology used for interface to the Selective Router and the ALI/Data Management System (DMS) and a 9-1-1 Call flow description; procedures for updating Cell Site

and Cell Sector Information; default and diverse routing plans; and an outline of Phase I E9-1-1 Service testing procedures.

(45) "**Phase I Interface to ALI Database**" shall mean the physical connection of Phase I ALI Data Circuits from a Service Control Point (SCP) or Selective Router to the ALI Database, and the ALI feature enabling of the Circuits.

(46) "**Phase I Interface to Selective Router**" shall mean the physical connection of the Phase I 9-1-1 Voice Network from an MSC of an RCSC to a Selective Router, and the Selective Router feature enabling of the 9-1-1 trunks.

(47) "**Phase I Master Street Address Guide (MSAG)**" shall mean records in a Master Street Address Guide associated with each Cell Sector that provide Cell Site and Cell Sector identification, address, coverage information, service provider name, and PSAP of the Cell Sector for automatic display at the PSAP when a wireless 9-1-1 call is processed by that Cell Sector.

(48) "**Phase I Testing**" shall mean testing conducted by an RCSC when Phase I E9-1-1 Service is implemented to ensure the service is working correctly and testing after a Company makes additions or changes to their Phase I E9-1-1 Service.

(49) "**Phase II Address**" shall mean the latitude and longitude (and, when available, altitude) of the customer.

(50) "**Phase II ALI**" shall mean the latitude and longitude (and, when available, altitude) of the customer, in addition to the MDN information. When the latitude and longitude are not available the Phase II ALI defaults to Phase I ALI as defined in this chapter.

(51) "**Phase II ALI Data Stream**" shall mean the location information and formatting required for data collected by the LDT and transmitted to the PSAP.

(52) "**Phase II Computer Aided Dispatch (CAD) System Upgrades**" shall mean upgrades to the PSAP CAD system necessary to interpret the Phase II ALI DataStream or to provide output to display Phase II location.

(53) "**Phase II E9-1-1 Service**" shall mean service provided by an RCSC that delivers Phase I E9-1-1 Service and latitude and longitude (and, when available, altitude) of the wireless customer.

(54) "**Phase II Implementation Plan**" shall mean a plan of an RCSC for implementation of Phase II E9-1-1 Service in a county or counties in Washington state, including, but not limited to: Phase II E9-1-1 Service activation date; network flowchart (including specification of the technology used for Phase II); and an outline of Phase II E9-1-1 Service testing procedures.

(55) "**Phase II Testing**" shall mean testing conducted by an RCSC when Phase II E9-1-1 Service is implemented to ensure the service is working correctly, and periodic testing necessary for the maintenance of the service.

(56) "**Position Determining Entity (PDE)**" is used interchangeably with and shall mean "Location Determination Technology (LDT)" as defined herein.

(57) "**PSAP Mapping**" shall mean a system capable of converting Phase II latitude and longitude (and, when avail-

able, altitude) to a map display at the 9-1-1 call answering positions at the PSAPs.

(58) "**Pseudo-ANI (P-ANI)**" shall mean a telephone number used to support routing of wireless 9-1-1 calls that may identify a wireless cell, cell sector, or PSAP to which the call should be routed.

(59) "**Public Safety Answering Point (PSAP)**" shall mean the public safety answering location for 9-1-1 calls originating in a given area. PSAPs are designated as primary or secondary, which refers to the order in which calls are directed for answering.

(60) "**Radio Communications Service Company (RCSC)**" shall mean every corporation, company, association, joint stock association, partnership, and person, their lessees, trustees, or receivers appointed by any court, and every city or town making available facilities to provide commercial mobile radio communications services, or cellular communications service for hire, sale, and both facilities-based and nonfacilities-based resellers, and does not include radio-paging providers.

(61) "**Regional PSAP**" shall mean a single facility answering 9-1-1 calls for multiple counties (two or more) on a twenty-four hours a day, seven days a week basis and operated under a single management and fiscal structure.

(62) "**Reverse ALI Search**" shall mean the ability to electronically query the ALI database to obtain an address associated with a known telephone number.

(63) "**Route Diversity**" shall mean a method of assuring continuity of service by using multiple transmission routes to deliver a particular service between two points on a network.

(64) "**Selective Router**" shall mean a Switching Office that provides tandem switching of 9-1-1 calls and controls delivery of a voice call with ANI to the PSAP and provides selective routing, speed calling, selective transfer, fixed transfer, and certain maintenance functions for each PSAP.

(65) "**Selective Routing**" shall mean a feature that permits a 9-1-1 call to be routed to a pre-designated PSAP based upon the address and/or location associated with the originating telephone number.

(66) "**Service Control Point (SCP)**" (also referred to as "signal control point") shall mean a remote database within the Signaling System 7 (SS7) signaling network that supplies the translation and routing data needed to deliver advanced network services.

(67) "**Service Control Point (SCP) Phase I Capabilities**" shall mean database and routing translations necessary for interpretation of data provided by the MSC on wireless 9-1-1 calls to allow 9-1-1 calls to be routed to the correct PSAP and display the correct MDN of the wireless phone and the correct Cell Site and Cell Sector information.

(68) "**Service Control Point (SCP) Phase II Capabilities**" shall mean specific functions and features necessary for interpretation of Phase II data provided by the MPC on wireless 9-1-1 calls to allow 9-1-1 calls to be routed to the correct PSAP and display the latitude and longitude (and, when available, altitude) of the caller.

(69) "**Signaling System 7 (SS7)**" shall mean an out-of-band signaling system used to provide basic routing informa-

tion, call set-up and other call termination functions in which signaling is removed from the voice channel itself and put on a separate data network.

(70) "Switching Office" shall mean a telecommunications provider facility that houses the switching and trunking equipment serving telephones in a defined area.

(71) "Switching Office Enabling" shall mean the technology that allows the public network telephone Switching Office to recognize and accept the digits 9-1-1.

(72) "Telecommunications Provider" shall mean a telecommunications company as defined in RCW 80.04.010, a RCSC as defined herein, and a commercial mobile radio service provider as defined in 47 CFR, section 20.3.

(73) "TTY" shall mean a telecommunications device that permits typed telephone conversations with or between deaf, hard of hearing, or speech impaired people with a machine at their location.

(74) "Traffic Studies" shall mean 9-1-1 call studies performed by a telecommunications provider.

(75) "Uninterruptible Power Supply (UPS)" shall mean a system designed to provide power, without delay or electrical transients, during a period when the normal power supply is incapable of performing acceptably.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 118-66-040 County eligibility for funding.** (1) As required by RCW 38.52.510, each county shall provide funding for the enhanced 9-1-1 communication system in the county or district in an amount equal to the amount the maximum taxes under RCW 82.14B.030(1) would generate in the county or district or the amount necessary to provide full funding of the system in the county or district, whichever is less.

(2) A county in the state of Washington may be eligible to receive available wireline funds from the enhanced 9-1-1 account for certain eligible wireline enhanced 9-1-1 expenses as described in this chapter only if the county has imposed the maximum county wireline enhanced 9-1-1 tax allowed under RCW 82.14B.030(1).

(3) A county in the state of Washington may be eligible to receive available wireless funds from the enhanced 9-1-1 account for certain eligible wireless enhanced 9-1-1 expenses as described in this chapter 32 related to implementation and operation of the enhanced wireless communication system only if the county has imposed the maximum county wireless enhanced 9-1-1 tax allowed under RCW 82.14B.030(2).

(4) Funds for wireless enhanced 9-1-1 service shall not be distributed to any county that has not negotiated or in good faith attempted to negotiate a wireless enhanced 9-1-1 Phase I or Phase II service agreement with the applicable RCSC(s).

#### NEW SECTION

**WAC 118-66-042 Radio communications service company (RCSC) eligibility for wireless funding.** (1) The

state enhanced E9-1-1 coordinator is authorized to enter into statewide agreements to improve the efficiency of enhanced 9-1-1 services for all counties, and may do so through execution of statewide agreements with RCSC(s).

(2) Funds for wireless enhanced 9-1-1 service shall not be distributed to any Radio Communications Service Company that has not negotiated or in good faith attempted to negotiate a wireless enhanced 9-1-1 Phase I or Phase II service agreement with the applicable county(ies).

#### NEW SECTION

**WAC 118-66-045 Washington state patrol (WSP) eligibility for wireless funding.** Upon designation by a county as a Public Safety Answering Point for wireless 9-1-1 calls, Washington State Patrol communications centers may be eligible to receive available wireless funds from the enhanced 9-1-1 account for ANI/ALI controllers and necessary interfaces to send data to other PSAP equipment, Phase I E9-1-1 voice network, PSAP mapping, Phase II CAD upgrades, and for ANI/ALI display equipment. Such eligibility shall be based on the portion of wireless 9-1-1 calls initially received by the regional Washington State Patrol communications center serving the designating county.

#### NEW SECTION

**WAC 118-66-050 Eligible expenses.** Enhanced 9-1-1 communications systems are comprised of multiple components. Subject to available funds, expenses for implementation, operation, and maintenance costs of these components may be eligible for reimbursement if incurred by eligible entities. The components listed below may be eligible for reimbursement to eligible entities from the enhanced 9-1-1 account based on a reasonable prioritization by the state E9-1-1 coordinator with the advice and assistance of the enhanced 9-1-1 advisory committee and in accordance with the purposes and priorities established by statute and regulation, including WAC 118-66-020.

(1) Expenses for the following wireline components may be eligible for reimbursement from the enhanced 9-1-1 account from funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)):

(a) Statewide dialing items:

(i) Switching Office Enabling;  
 (ii) Automatic Number Identification (ANI);  
 (iii) 9-1-1 Voice Network (B.01/P.01 Grade of Service level required);

(iv) Traffic Studies between Switching Offices and the Selective Router;

(v) MSAG coordination and maintenance;

(vi) ALI/DMS service;

(vii) Reverse ALI Search capability.

(b) Basic service items:

(i) Route Diversity between Switching Offices and Selective Router;

(2) Expenses for the following wireless components may be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)):

- (a) Wireless Phase I E9-1-1 service components:
- (i) Phase I Automatic Location Identification (ALI)
- (ii) Phase I Address;
- (iii) Service Control Point Phase I Capabilities;
- (iv) Phase I ALI Database;
- (v) Phase I MSAG coordination;
- (vi) Phase I Interface to Selective Router;
- (vii) Phase I Interface to ALI Database;
- (viii) Phase I Testing;
- (ix) Phase I Implementation Plans;
- (x) Phase I Implementation Agreements;
- (xi) Pseudo-ANI (P-ANI);
- (xii) Phase I 9-1-1 Voice Network;
- (xiii) MSC Phase I Software Capabilities;
- (xiv) Traffic Studies between the MSC and Selective Router;
- (xv) Phase I ALI Data Circuits;
- (b) Wireless E9-1-1 Phase II service components (including all Phase I components):
  - (i) PSAP Mapping;
  - (ii) Phase II CAD System Upgrades;
  - (iii) Location Determination Technology;
  - (iv) Phase II Implementation Plan;
  - (v) Phase II Testing;
  - (vi) MSC Phase II Software Capabilities;
  - (vii) Service Control Point Phase II Capabilities; and
  - (viii) Mobile Positioning Center.
- (3) Expenses for the following components are shared with wireline and wireless enhanced 9-1-1 services and may be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)) and from enhanced 9-1-1 account funds generated under the statewide wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)):
  - (a) Statewide dialing items:
  - (i) Selective Routing;
  - (ii) Automatic Location Identification (ALI) Database;
  - (iii) Traffic Studies between Selective Router and PSAP;
  - (iv) ANI/ALI Controllers and necessary interfaces to send data to other PSAP equipment;
  - (v) ANI/ALI Display Equipment for primary PSAPs;
  - (vi) That portion of a telephone system compatible with enhanced 9-1-1 that is used to answer 9-1-1 calls;
  - (vii) TTY required for compliance with the American Disabilities Act (ADA);
  - (viii) County 9-1-1 coordinator duties;
  - (b) Basic service items:
    - (i) Call Detail Recorder and/or printer;
    - (ii) E9-1-1 Mapping Administration;
    - (iii) Mapping display for call answering positions that are ANI/ALI equipped.
  - (iv) Instant Call Check equipment (one per 9-1-1 call answering position);
  - (v) Uninterruptible Power Supply (UPS) for PSAP enhanced 9-1-1 equipment;
  - (vi) 9-1-1 Management Information System;
  - (vii) Headsets for 9-1-1 call takers;
  - (viii) 9-1-1 call receiver salaries and benefits;
  - (ix) Language Line Service;
  - (x) Call receiver training;

- (xi) Enhanced 9-1-1 document retention and destruction;
- (xii) 9-1-1 coordinator Electronic Mail;
- (xiii) Route Diversity between selective router and PSAP;
- (xiv) Alternate Routing and/or Night Service;
- (c) Capital:
  - (i) Auxiliary generator to support 9-1-1 emergency telephone service for backup;
  - (ii) Logging Recorder for 9-1-1 call;
  - (iii) Computer Aided Dispatch (CAD) system hardware and software; and
  - (iv) Clock synchronizer.

#### NEW SECTION

**WAC 118-66-080 Allocation of funds.** (1) Within available funds and consistent with statutory and regulatory purposes and priorities, the state enhanced 9-1-1 coordinator (with the advice and assistance of the enhanced 9-1-1 advisory committee) has the discretion to allocate enhanced 9-1-1 account funds to eligible entities as reimbursement for wireline and wireless enhanced 9-1-1 eligible expenses.

(2) Eligible expenses for wireline components established in WAC 118-66-050(1) may only be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)). Such funds shall be allocated based on statutory and regulatory purposes and priorities and WAC 118-66-020.

(3) Eligible expenses for wireless components established in WAC 118-66-050(2) may only be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)). Such funds shall be allocated based on statutory and regulatory purposes and priorities and WAC 118-66-020.

(4) Eligible expenses for components established in WAC 118-66-050 (3) may be eligible for reimbursement from enhanced 9-1-1 account funds generated under the state wireline enhanced 9-1-1 excise tax (RCW 82.14B.030(3)) and enhanced 9-1-1 account funds generated under the state wireless enhanced 9-1-1 excise tax (RCW 82.14B.030(4)). The amount allocated from each tax source will be based on an equitable distribution determined by the state E9-1-1 coordinator with the advice and assistance of the enhanced 9-1-1 advisory committee. Such funds shall be allocated based on statutory and regulatory purposes and priorities and WAC 118-66-020.

#### NEW SECTION

**WAC 118-66-081 Funding applications.** Requests for funding shall be submitted in accordance with application formats developed by the state E9-1-1 coordinator and shall include plans and budget information justifying the funding request, an annual schedule of eligible items, funding levels, and funding priority. The state E9-1-1 coordinator will establish a schedule of annual application dates.

NEW SECTION

**WAC 118-66-085 Reporting requirements for radio communications service companies (RCSCs).** In addition to other reports that may be required as a condition of funding, RCSCs shall report to the state E9-1-1 office, on a per county basis, the total number of customers, including customers that are using resold services from that company, based on the customers' place of primary use. These numbers shall reflect the total number of customers at the end of each calendar year and shall be furnished to the respective county enhanced 9-1-1 coordinator by March 1 of the following year. RCSCs shall conduct Traffic Studies on 9-1-1 call volumes between their MSC and each Selective Router in the state as requested by the state E9-1-1 coordinator. Up to four studies may be requested by the state E9-1-1 coordinator during any calendar year.

**Reviser's note:** The typographical error in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 118-66-090 Other rules.** Through other state agencies, such as, the Washington Utilities and Transportation Commission, rules have and will be adopted which will impact the statewide operation of enhanced 9-1-1. By this reference, this rule is intended to be consistent with and complementary to these other rules.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 118-65-010	Authority.
WAC 118-65-020	Purpose.
WAC 118-65-030	Definitions.
WAC 118-65-040	Eligible jurisdictions.
WAC 118-65-050	Fundable items.
WAC 118-65-060	Local plan requirements.
WAC 118-65-070	Funding priorities.
WAC 118-65-081	Application procedures.
WAC 118-65-090	Other rules.

PROPOSED



**WSR 03-04-030**  
**EXPEDITED RULES**  
**DEPARTMENT OF REVENUE**  
[Filed January 27, 2003, 3:27 p.m.]

Title of Rule: Repealing WAC 458-20-231 Tax on internal distribution.

Purpose: This rule explains the application of the B&O tax imposed on transfers of tangible personal property from a central location to retail outlets where there is no change of ownership.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Statute Being Implemented: RCW 82.04.270.

Summary: WAC 458-20-231 explains the application of the B&O tax on internal transfers of tangible personal property from a warehouse or other central location where no change in ownership of the goods occurs. This rule explains that this tax was repealed effective July 1, 1998, by chapter 329, Laws of 1998.

Reasons Supporting Proposal: This information is no longer needed because this tax does not apply to any period within the statutory claim period for refunds and/or assessments.

Name of Agency Personnel Responsible for Drafting: JoAnne Gordon, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6121; Implementation: Alan Lynn, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6125; and Enforcement: Russell Brubaker, 1025 Union Avenue S.E., Suite #400, Olympia, WA, (360) 570-6131.

Name of Proponent: Department of Revenue, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: WAC 458-20-231 explains the application of the B&O tax on internal transfers of tangible personal property that was imposed by RCW 82.04.270. This tax, commonly referred to as the "internal distributions tax" applied to persons distributing articles of tangible personal property owned by them from their own warehouse or other central location in this state to two or more of their own retail stores or outlets in this state.

The rule currently explains that the internal distributions tax was repealed by chapter 329, Laws of 1998, and does not apply on or after July 1, 1998. Thus, the period during which this tax applied is now outside the statutory claim period provided in RCW 82.32.050. The department proposes to repeal Rule 231 at this time because the information is no longer needed.

Proposal Changes the Following Existing Rules: This rule-making action proposes to repeal WAC 458-20-231 as explained above.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Debra L. Gregory, Wash-

RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO JoAnne Gordon, Tax Policy Specialist, Legislation and Policy Division, Division of Revenue, P.O. Box 47467, Olympia, WA 98504-7467, AND RECEIVED BY April 7, 2003.

January 27, 2003  
Alan R. Lynn  
Rules Coordinator  
Legislation and Policy Division

**WSR 03-04-062**  
**EXPEDITED RULES**  
**DEPARTMENT OF TRANSPORTATION**

[Filed January 30, 2003, 3:03 p.m.]

Title of Rule: WAC 468-06-040 Description of central and field organization of the Washington state department of transportation.

Purpose: To update the agency's central and field office descriptions.

Statutory Authority for Adoption: RCW 47.01.031.

Summary: The department will make changes to the central and field organization office descriptions to better reflect the agency's organizational structure.

Name of Agency Personnel Responsible for Drafting: Debra L. Gregory, Office of the Secretary, (360) 705-7806; Implementation and Enforcement: Paula J. Hammond, Office of the Secretary, (360) 705-7027.

Name of Proponent: Secretary of Transportation, governmental.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: The agency recommends approval.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: The purpose of this rule is to update the Department of Transportation's central and field office organization descriptions to better reflect the current organizational structure of the agency.

Proposal does not change existing rules. Does not change the substance of the WAC. It does update the titles of the agency's executives and reporting structure.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Debra L. Gregory, Wash-

EXPEDITED

ington State Department of Transportation, 310 Maple Park Avenue S.E., Olympia, WA 98504-7316, AND RECEIVED BY March 10, 2003.

January 27, 2003  
P. J. Hammond, P. E.  
Chief of Staff

**AMENDATORY SECTION** (Amending WSR 02-10-021, filed 4/23/02, effective 5/24/02)

**WAC 468-06-040 Description of central and field organization of the Washington state department of transportation.** (1) The department of transportation is a statutorily created agency of the state of Washington. The central office of the department of transportation is located in the Transportation Building, Olympia, WA 98504.

(2) The department of transportation is headed by a secretary who is the executive head of the department and is appointed by the Washington state transportation commission.

(a) Serving directly under the secretary are the chief of staff, audit office, equal opportunity office, engineering and regional operations division, ((~~northwest Washington division;~~)) Washington state ferries division and the finance and administration ((~~and support~~)) division. There are also assistant attorney generals assigned to the department who provide legal services in department matters.

(b) Reporting directly to the chief of staff are the following offices: Communications, governmental liaison office, ombudsman, freight strategy and policy, highways and local programs, public transportation and rail, aviation and transportation economic partnerships.

(c) The following programs report to the assistant secretary for engineering and regional operations, depending upon their needs. Environmental and engineering programs, urban corridors and northwest coordination, maintenance and operations programs and planning and capital program management.

(d) The department field functions are carried out by six regions which are each headed by a region administrator. The central regional office locations are: Seattle, Wenatchee, Tumwater, Vancouver, Yakima, and Spokane. The regions have various project and maintenance area offices which are headed by a supervisor. ((The)) Region administrators ((for Seattle and Tumwater report directly to the assistant secretary for the northwest Washington division. The region administrators for Wenatchee, Vancouver, Yakima and Spokane)) report directly to the assistant secretary for the engineering and regional operations division.

stantially replaced. Only WAC 173-06-120 is being revised.

Purpose: To amend chapter 173-06 WAC so it will conform and be consistent with chapter 43.21A RCW while also providing an administratively manageable framework for delegation of authority from the director to employees of the department. Both the statute and the rule address the establishment of appropriate signature delegation processes in the Department of Ecology. The rule amendments will update WAC 173-06-120 and provide clear guidance for signature delegation in ecology.

Statutory Authority for Adoption: RCW 34.05.322, 43.21A.080, and 43.21A.090.

Statute Being Implemented: RCW 43.21A.090.

Summary: Clarifies delegation of powers and grants clear authority for employees of the department to carry out their assigned responsibilities, removes the requirement that delegation must be in writing by letter from the director, and establishes clear linkage to the ecology policy on delegating authority to ecology employees.

Reasons Supporting Proposal: Revising the delegation of power rule will clarify downward delegation by the director; removal of the letter requirement will save considerable time and expenses in preparing and maintaining a downward delegation letter tracking system; employees of the department will be able to conduct their jobs knowing that they have appropriate authority to do so.

Name of Agency Personnel Responsible for Drafting and Implementation: Charles Carelli, Department of Ecology, Olympia, Washington, (360) 407-6537; and Enforcement: Joy St. Germain, Department of Ecology, Olympia, Washington, (360) 407-6218.

Name of Proponent: Washington Department of Ecology, Olympia, Washington, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This rule making would revise WAC 173-06-120, delegation of powers. The current rule requires that delegation of powers (signature delegation) be in the form of a letter from the director to the individual receiving delegation and that the delegation letter be specific as to the extent of delegations being granted.

Department of Ecology Policy I-05 also addresses delegation and includes two matrixes, Formal and Informal, which guides certain signature delegations and the limits of those delegations. The use of the matrix is linked to the delegation of power rule.

The effects of the proposed amendments would be to:

(1) Delete the requirement that signature delegation be in the form of a letter from the director;

(2) Utilizes a signature delegation matrix as the means for specifying delegated authority instead of issuing individual letters; and

(3) Clean up some old and out-of-date language in the existing rule.

The proposed rule and policy revisions will specify the extent of signature authority for department employee positions whose assigned duties and responsibilities include

**WSR 03-04-081**  
**EXPEDITED RULES**  
**DEPARTMENT OF ECOLOGY**  
[Order 02-18—Filed February 3, 2003, 1:33 p.m.]

authority to take formal or other action on behalf of the director and/or the department, including but not limited to the issuance of penalties, orders, directives, permits, or other decisions reviewable before appropriate administrative or judicial bodies.

Proposal Changes the Following Existing Rules: Chapter 173-06 WAC will be revised. Specifically WAC 173-06-120 will be deleted and replaced with new text addressing the changes identified above.

### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Jerry Thielen, Rules Coordinator, Department of Ecology, P.O. Box 47600, Olympia, WA 98504-7600, jthi461@ecy.wa.gov, AND RECEIVED BY April 7, 2003.

February 3, 2003

Linda Hoffman  
Deputy Director

### AMENDATORY SECTION (Amending Order 94-45, filed 3/9/95, effective 4/9/95)

#### WAC 173-06-120 Delegation. ((1) The authority delegated hereby includes the authority to:

(a) Act on behalf of the department in the administration of programs and all other duties assigned the department; and

(b) Approve or deny engineering reports, plans and specifications, or amendments thereto, required to be submitted to the department.

Delegated powers include, but are not limited to, the authority to issue orders, directives or decisions reviewable before appropriate administrative or judicial bodies. The delegation established by this rule shall be effective when the person to whom delegation is made has been issued a letter from the director authorizing him or her to act for the department with respect to the specifics set forth in such letter.

(2) Whenever an individual is delegated the authority to approve or deny engineering reports, plans and specifications, or amendments thereto, such approval or denial must be based on engineering services provided by a registered professional engineer in accordance with current state law.

(3) Any person who has been properly designated to serve in a temporary or acting capacity for an employee who has been delegated authority under this rule shall have the same delegated authority as the individual permanently holding the position.

(4) In the absence of a person who has been delegated authority by the director, managers senior to that person may perform the delegated functions in accordance with their letters of authorization.

(5) In addition to the delegation provided for in the preceding subsections, the director may, under special circumstances, delegate in writing specific signature authority to any department employee.

(6) The authority delegated in this rule is limited to the power to act for the department in carrying out functions within the power of the department, and shall not be construed to authorize acts which are contrary to law or beyond the authority of the department.) (1) Consistent with their assigned duties and responsibilities, department employees are delegated authority to act on behalf of the director and department in the administration of programs and all other duties assigned to the department.

(2) The department shall, by formal policy, specify the extent of signature authority for department employee positions whose assigned duties and responsibilities include authority to take formal action on behalf of the director and/or the department, including, but not limited to, the issuance of penalties, orders, directives, permits, or other decisions reviewable before appropriate administrative or judicial bodies. Such policy may specify the extent of signature authority for department employee positions whose assigned duties and responsibilities include authority to take other action on behalf of the director and/or department. Such policies may be amended as appropriate. Copies of this policy shall be available for public review upon request.

(3) For department employees whose assigned duties and responsibilities include authority to approve or deny reports, plans and specifications, or amendments thereto, prepared by a registered professional, such approval or denial must be based on services provided by a similarly registered professional in accordance with state law.

(4) Any department employee whose assigned duties and responsibilities include signature authority to act on behalf of the director and/or department, may not delegate any such authority to an employee that he or she supervises unless such additional delegation is provided for in a written delegation letter. The written delegation letter shall be signed by the employee granting delegation and the employee receiving delegation. A department employee receiving such delegation shall not further delegate authority, except as provided in subsection (5) of this section. Each written delegation letter shall also include the position number of the employee receiving delegation. Unless rescinded, authority granted by a written delegation letter remains in effect as long as the employee delegated authority retains the same position number. A copy of each written delegation letter shall be maintained in a file within the department program in which the employee receiving delegation is assigned. Employees granting delegation pursuant to this provision may, upon written notification to the employee receiving delegation, rescind delegation at any time. A copy of each letter rescinding delegation shall be maintained in a file within the department program in which the employee rescinding delegation is assigned. An employee granting delegation pursuant to this paragraph does not relinquish his or her delegated authority to act on the behalf of the director or the department.

(5) In addition to the delegation described in subsection (4) of this section, any department employee whose assigned duties and responsibilities include signature authority to act

EXPIRED

on behalf of the director and/or department, may designate another department employee to serve in a temporary or acting capacity. Any employee properly designated to serve in a temporary or acting capacity shall have the same delegated authority as the department employee permanently holding the position, unless the delegation letter provides otherwise. Proper designation to serve in temporary or acting capacity for a position shall consist of a letter to the individual assuming temporary or acting capacity from the employee who permanently serves in the position or from the director. A department employee receiving such delegation shall not further delegate authority.

(6) During the absence of an employee delegated authority pursuant to this rule, employees responsible for supervising the absent employee may perform the absent employee's delegated functions.

(7) The authority delegated in this rule is limited to the power to act for the department in carrying out functions within the power of the department, and shall not be construed to authorize acts which are contrary to law or beyond the authority of the department.

(8) Nothing in this chapter shall preclude the director from delegating in writing specific signature authority to any employee of the department nor in any way limit the authority of the director to act on behalf of the department.

**WSR 03-04-100  
EXPEDITED RULES  
DEPARTMENT OF  
LABOR AND INDUSTRIES**

[Filed February 4, 2003, 1:18 p.m.]

Title of Rule: Safety standards for agriculture, chapter 296-307 WAC and Occupational safety and health standards, chapter 296-62 WAC.

Purpose: This rule making will incorporate rules from the General occupational health standard, chapter 296-62 WAC, into the Safety standards for agriculture, chapter 296-307 WAC. The rules are written using plain language and there is no increase in requirements.

Statutory Authority for Adoption: RCW 49.17.010, 49[.17].040, 49[.17].050, and 49[.17].060.

Statute Being Implemented: Chapter 49.17 RCW.

Summary: This rule making will incorporate rules from the General occupational health standard, chapter 296-62 WAC, into the Safety standards for agriculture, chapter 296-307 WAC. The rules are written using plain language and there is no increase in requirements.

The following requirements are proposed for addition into the Safety standards for agriculture, chapter 296-307 WAC:

- Biological agents.
- Control chemical agents.
- Emergency washing facilities.
- Content and distribution of material safety data sheets.
- Dipping and coating operations (dip tanks).

Also, the Occupational Safety and Health Administration identified three WAC sections (listed below) as being

"not at-least-as-effective-as" their federal rules. Washington Industrial Safety and Health Act (WISHA) is required to be "at-least-as-effective-as" the federal rules, therefore we are incorporating these requirements into this rule making.

- WAC 296-307-40013 What requirements apply to the construction, original test, and requalification of nonrefrigerated containers?
- WAC 296-307-40015 How must nonrefrigerated containers and systems (other than DOT containers) be marked?
- WAC 296-307-40027 What emergency precautions are required when handling anhydrous ammonia?

**NEW SECTIONS:**

**WAC 296-307-03930 Make sure emergency washing facilities are functional and readily accessible.**

- Move existing requirements relating to functional and readily accessible emergency washing facilities from WAC 296-62-130 to this section.

**WAC 296-307-03935 Inspect and activate your emergency washing facilities.**

- Move existing requirements relating to inspecting and activating emergency washing facilities from WAC 296-62-130 to this section.

**WAC 296-307-03940 Make sure supplemental flushing equipment provides sufficient water.**

- Move existing requirements relating to supplemental flushing equipment for emergency washing facilities from WAC 296-62-130 to this section.

**WAC 296-307-03945 Definitions.**

- Move the following definitions relating to emergency washing facilities from WAC 296-62-130 to this section:
  - Corrosive.
  - Emergency washing facilities.
  - Strong irritant.
  - Toxic chemical.
- Add the following definitions to this section for clarity:
  - Hand-held drench hose.
  - Personal eyewash units.

**WAC 296-307-445 Scope.**

- Move the scope relating to dipping and coating operations (dip tanks) from WAC 296-62-11021 to this section.

**WAC 296-307-45010 Provide proper ventilation for the vapor area.**

- Move requirements relating to providing proper ventilation for the vapor area from WAC 296-62-11021 to this section.

**WAC 296-307-45020 Take additional precautions when using an exhaust hood.**

- Move requirements relating to taking additional precautions when using an exhaust hood from WAC 296-62-11021 to this section.

**WAC 296-307-45030 Make sure employees working near dip tanks know appropriate first-aid procedures.**

- Move requirements relating to first-aid procedures from WAC 296-62-11021 to this section.

**WAC 296-307-45035 Prepare dip tanks before cleaning.**

- Move requirements relating to preparing dip tanks before cleaning from WAC 296-62-11021 to this section.

**WAC 296-307-45045 Protect employees during welding, burning, or other work using open flames.**

- Move requirements relating to protecting employees during welding, burning, or other work using open flames from WAC 296-62-11021 to this section.

**WAC 296-307-45050 Protect employees that use liquids that may burn, irritate, or otherwise harm the skin.**

- Move requirements relating to protecting employees that use liquids that may burn, irritate, or otherwise harm the skin from WAC 296-62-11021 to this section.

**WAC 296-307-455 Additional requirements for dip tanks using flammable or combustible liquids.**

- Add this section as a summary page listing all the WAC sections applicable to requirements for dip tanks that use flammable or combustible liquids.

**WAC 296-307-45505 Include additional safeguards when constructing dip tanks.**

- Move requirements relating to including additional safeguards when constructing dip tanks from WAC 296-62-11021 to this section.

**WAC 296-307-45510 Provide overflow pipes.**

- Move requirements relating to providing overflow pipes from WAC 296-62-11021 to this section.

**WAC 296-307-45515 Provide bottom drains.**

- Move requirements relating to providing bottom drains from WAC 296-62-11021 to this section.

**WAC 296-307-45520 Provide fire protection in the vapor area.**

- Move requirements relating to providing fire protection in the vapor area from WAC 296-62-11021 to this section.

**WAC 296-307-45525 Provide additional fire protection for large dip tanks.**

- Move requirements relating to providing additional fire protection for large dip tanks from WAC 296-62-11021 to this section.

**WAC 296-307-45535 Prevent static electricity sparks or arcs when adding liquids to a dip tank.**

- Move requirements relating to preventing static electricity sparks or arcs from WAC 296-62-11021 to this section.

**WAC 296-307-45540 Control ignition sources.**

- Move requirements relating to controlling ignition sources from WAC 296-62-11021 to this section.

**WAC 296-307-45545 Provide safe electrical wiring and equipment where the liquid can drip or splash.**

- Move requirements relating to providing safe electrical wiring and equipment from WAC 296-62-11021 to this section.

**WAC 296-307-45550 Keep the area around dip tanks clear of combustible material and properly dispose of waste.**

- Move requirements relating to keeping the area around dip tanks clear of combustible material and properly dispose of waste from WAC 296-62-11021 to this section.

**WAC 296-307-45555 Make sure heating the liquid in your dip tanks does not cause a fire.**

- Move requirements relating to making sure heating the liquid in your dip tank does not cause a fire from WAC 296-62-11021 to this section.

**WAC 296-307-45560 Make sure a heating system used for drying objects does not cause a fire.**

- Move requirements relating to making sure a heating system used for drying objects does not cause a fire from WAC 296-62-11021 to this section.

**WAC 296-307-45565 Make sure conveyor systems are safe.**

- Move requirements relating to making sure conveyor systems are safe from WAC 296-62-11021 to this section.

**WAC 296-307-460 Additional requirements for dip tanks used for specific processes. Summary.**

- Add this section as a summary page listing all the WAC sections applicable to requirements for dip tanks used for specific processes.

**WAC 296-307-46005 Meet specific requirements if you use a hardening or tempering tank.**

- Move requirements relating to hardening or tempering tanks from WAC 296-62-11021 to this section.

**WAC 296-307-46025 Provide additional safeguards for vapor degreasing tanks.**

- Move requirements relating to providing additional safeguards for vapor degreasing tanks from WAC 296-62-11021 to this section.

EXPEDITED

**WAC 296-307-46030 Control liquid spray over an open surface cleaning or degreasing tank.**

- Move requirements relating to controlling liquid spray over an open surface cleaning or degreasing tank from WAC 296-62-11021 to this section.

**WAC 296-307-465 Definitions.**

- Add the following definitions relating to dip tanks to this section for clarity:

-ACGIH  
 -Adjacent area  
 -ANSI  
 -Approved  
 -Autoignition temperature  
 -Combustible liquid  
 -Deterging  
 -Dip tank  
 -Flammable liquid  
 -Flashpoint  
 -Lower flammable limit  
 -NFPA  
 -Vapor area  
 -You.

**WAC 296-307-560 Scope.**

- Move the scope relating to the content and distribution of material safety data sheets (MSDSs) and label information from WAC 296-62-054 to this section.

**WAC 296-307-56005 Hazard evaluation.**

- Add this section as a summary page listing all the WAC sections applicable to hazard evaluations.

**WAC 296-307-56010 Conduct complete hazard evaluations.**

- Move requirements relating to conducting complete hazard evaluations from WAC 296-62-05402, 296-62-05404, 296-62-05406, and 296-62-05408 to this section.

**WAC 296-307-56015 Provide access to hazard evaluation procedures.**

- Move requirements relating to providing access to hazard evaluation procedures from WAC 296-62-05402 to this section.

**WAC 296-307-56020 Material safety data sheets.**

- Add this section as a summary page listing all the WAC sections applicable to material safety data sheets.

**WAC 296-307-56025 Develop or obtain material safety data sheets (MSDSs).**

- Move requirements relating to developing or obtaining material safety data sheets from WAC 296-62-05404, 296-62-05406, and 296-62-05408 to this section.

**WAC 296-307-56030 Provide MSDSs for products shipped, transferred or sold over-the-counter.**

- Move requirements relating to providing MSDSs for products shipped, transferred or sold over-the-counter from WAC 296-62-05412 to this section.

**WAC 296-307-56035 Follow-up if an MSDS is not provided.**

- Move requirements relating to a follow-up if an MSDS is not provided from WAC 296-62-05412 to this section.

**WAC 296-307-56040 Labeling.**

- Move requirements relating to labeling from WAC 296-62-05410 to this section.

**WAC 296-307-56045 Label containers of hazardous chemicals.**

- Move requirements relating to labeling containers of hazardous chemicals from WAC 296-62-05410 to this section.

**WAC 296-307-56050 Definitions.**

- Move the following definitions from WAC 296-62-054:

-Article  
 -Chemical  
 -Chemical name  
 -Common name  
 -Designated representative  
 -Hazardous chemical  
 -Identity  
 -Importer  
 -Manufacturer  
 -Material safety data sheets (MSDSs)  
 -Mixture  
 -Use.

- Add the following definitions for clarity:

-Combustible liquid  
 -Commercial account  
 -Compressed gas  
 -Container  
 -Distributor  
 -Explosive  
 -Flammable  
 -Flashpoint  
 -Hazard warning  
 -Health hazard  
 -Label  
 -Organic peroxide  
 -Oxidizer  
 -Permissible exposure limits (PELs)  
 -Physical hazards  
 -Produce  
 -Pyrophoric  
 -Responsible party  
 -Retailer  
 -Threshold limit values (TLVs)

- Unstable (reactive)
- Water-reactive
- Wholesaler.

**AMENDED SECTIONS:**

**WAC 296-307-009 What definitions apply to this chapter?**

- Add the following definitions to this section:
  - Biological agents.
  - Chemical agents (airborne or contact).

**WAC 296-307-018 What are the employer's responsibilities?**

- Move requirements relating to controlling chemical agents from WAC 296-62-07005 to this section as subsection (9).
- Move requirements relating to biological agents from WAC 296-62-080 to this section as subsection (10).

**WAC 296-307-40013 What requirements apply to the construction, original test, and requalification of nonrefrigerated containers?**

- Requirements for how the containers need to be constructed and tested were inadvertently left out of this WAC section. The Occupational Safety and Health Administration (OSHA) identified this as being "not at-least-as-effective-as" their federal rules. Washington Industrial Safety and Health Act (WISHA) is required to be "at-least-as-effective-as," therefore we are incorporating these requirements into this rule making.

**WAC 296-307-40015 How must nonrefrigerated containers and systems (other than DOT containers) be marked?**

- Requirements for refrigerated containers were inadvertently left out of this WAC section. OSHA identified this as being "not at-least-as-effective-as" their federal rules. WISHA is required to be "at-least-as-effective-as," therefore we are incorporating these requirements into this rule making.

**WAC 296-307-40027 What emergency precautions are required when handling anhydrous ammonia?**

- Requirements for at least two gas masks being readily accessible were inadvertently left out of this WAC section. OSHA identified this as being "not at-least-as-effective-as" their federal rules. WISHA is required to be "at-least-as-effective-as," therefore we are incorporating these requirements into this rule making.

**WAC 296-307-450 General requirements. Summary.**

- Amend this section to include a summary page listing all the WAC sections applicable to general requirements for dipping and coating operations (dip tanks).

**WAC 296-307-45005 Construct safe dip tanks.**

- Delete existing language and clarify requirements relating to constructing safe dip tanks.

**WAC 296-307-45015 Take additional precautions if you recirculate ventilation system exhaust air into the workplace.**

- Delete existing language and clarify requirements relating to taking additional precautions if you recirculate ventilation system exhaust air into the workplace.

**WAC 296-307-45025 Periodically inspect your dip tanks and associated equipment and correct any deficiencies.**

- Delete existing language and clarify requirements relating to periodically inspecting dip tanks.

**WAC 296-307-55030 Inform and train your employees about hazardous chemicals in your workplace.**

- Correct formatting errors.

**REPEAL SECTIONS:**

**WAC 296-62-054 Manufacturers, importers and distributors—Hazard communication.**

- Requirements in this section have been rewritten and moved to WAC 296-307-560 through 296-307-56050. Repeal this section.

**WAC 296-62-05402 Determine whether the chemicals you produce in your workplace or import are hazardous.**

- Requirements in this section have been rewritten and moved to WAC 296-307-560 through 296-307-56050. Repeal this section.

**WAC 296-62-05404 Use these criteria in making hazard determinations.**

- Requirements in this section have been rewritten and moved to WAC 296-307-560 through 296-307-56050. Repeal this section.

**WAC 296-62-05406 Determine whether the chemicals you produce or import are health hazards.**

- Requirements in this section have been rewritten and moved to WAC 296-307-560 through 296-307-56050. Repeal this section.

**WAC 296-62-05408 Obtain or develop a material safety data sheet for each hazardous chemical you produce or import.**

- Requirements in this section have been rewritten and moved to WAC 296-307-560 through 296-307-56050. Repeal this section.

**WAC 296-62-05410 Label clearly each container of hazardous chemicals that leaves your workplace.**

- Requirements in this section have been rewritten and moved to WAC 296-307-560 through 296-307-56050. Repeal this section.

EXEMPTED

**WAC 296-62-05412 Provide material safety data sheets.**

- Requirements in this section have been rewritten and moved to WAC 296-307-560 through 296-307-56050. Repeal this section.

**WAC 296-62-070 Chemical agents (airborne or contact).**

- Definitions in this section have been moved to WAC 296-307-009. Repeal this section.

**WAC 296-62-07001 Definitions (airborne chemical agents).**

- Definitions in this section have been moved to WAC 296-307-009. Repeal this section.

**WAC 296-62-07003 Definitions (contact chemical agents).**

- Definitions in this section have been moved to WAC 296-307-009. Repeal this section.

**WAC 296-62-07005 Control of chemical agents.**

- Requirements in this section have been rewritten and moved to WAC 296-307-018. Repeal this section.

**WAC 296-62-080 Biological agents.**

- Requirements in this section have been rewritten and moved to WAC 296-307-018. Repeal this section.

**WAC 296-62-11021 Open surface tanks.**

- Requirements in this section have been rewritten and moved to chapter 296-307 WAC, Part U-3. Repeal this section.

**WAC 296-62-130 Emergency washing facilities.**

- Requirements in this section have been rewritten and moved to chapter 296-307 WAC, Part B. Repeal this section.

**WAC 296-307-45001 What general requirements apply to hazardous materials and flammable and combustible liquids?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45003 What requirements apply to dip tanks containing flammable or combustible liquids?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45007 What requirements must ventilation systems meet?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45009 What general requirements apply to the construction of dip tanks?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45011 How must overflow pipes for dip tanks be constructed?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45013 How must bottom drains of dip tanks be constructed?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45017 What measures must an employer take to prevent hazards from electrical and other ignition sources?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45019 How must dip tanks be operated and maintained?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45021 What requirements must fire extinguishing systems meet?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45023 What requirements apply to hardening and tempering tanks?**

- Requirements in this section have been rewritten and moved to WAC 296-307-445 through 296-307-465. Repeal this section.

**WAC 296-307-45027 What requirements apply to electrostatic apparatus?**

- Repeal this section.

**WAC 296-307-45029 What requirements apply to roll coating applications?**

- Repeal this section.

**Reasons Supporting Proposal:** This rule making will incorporate rules from the General occupational health standard, chapter 296-62 WAC, into the Safety standards for agriculture, chapter 296-307 WAC, so that the rules will be at-least-as-effective-as the federal rules.

**Name of Agency Personnel Responsible for Drafting:** Tracy Spencer, Tumwater, (360) 902-5530; **Implementation and Enforcement:** Michael A. Silverstein, Tumwater, (360) 902-5495.

**Name of Proponent:** Department of Labor and Industries, governmental.

**Rule is necessary because of federal law, 1910.111**

**Explanation of Rule, its Purpose, and Anticipated Effects:** See Summary above.

**Proposal Changes the Following Existing Rules:** See Summary above.

## NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Carmen Moore, Department of Labor and Industries, P.O. Box 44001, Olympia, WA 98504-4001, AND RECEIVED BY April 9, 2003.

February 4, 2003

Paul Trause  
Director

**AMENDATORY SECTION** (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

**WAC 296-307-009 What definitions apply to this chapter?** "Approved" means approved by the director of the department of labor and industries, or by another organization designated by the department. Also means listed or approved by a nationally recognized testing laboratory.

"Authorized person" means someone you have approved to perform specific duties or to be at a specific location on the job site.

"Biological agents" means organisms or their by-products.

"Chemical agents (airborne or contact)" means a chemical agent is any of the following:

- Airborne chemical agent which is any of the following:
  - Dust - solid particles suspended in air, generated by handling, drilling, crushing, grinding, rapid impact, detonation, or decrepitation of organic or inorganic materials such as rock, ore, metal, coal, wood, grain, etc.

- Fume - solid particles suspended in air, generated by condensation from the gaseous state, generally after volatilization from molten metals, etc., and often accompanied by a chemical reaction such as oxidation.

- Gas - a normally formless fluid that can be changed to the liquid or solid state by the effect of increased pressure or decreased temperature or both.

- Mist - liquid droplets suspended in air, generated by condensation from the gaseous to the liquid state or by breaking up a liquid into a dispersed state, such as by splashing, foaming or atomizing.

- Vapor - the gaseous form of a substance that is normally in the solid or liquid state.

- Contact chemical agent which is any of the following:

- Corrosives - substances that in contact with living tissue cause destruction of the tissue by chemical action.

- Irritants - substances that on immediate, prolonged, or repeated contact with normal living tissue will induce a local inflammatory reaction.

- Toxicants - substances that have the inherent capacity to produce personal injury or illness to individuals by absorption through any body surface.

"Department" means the department of labor and industries. When this chapter refers to "we" or "us," it means labor and industries staff responsible for enforcing the Washington Industrial Safety and Health Act (WISHA).

"Director" means the director of the department of labor and industries, or a designated representative.

"Employee" means someone providing personal labor in the business of the employer, including anyone providing personal labor under an independent contract.

"Employer" means a business entity having one or more employees. Also, any person, partnership, or business entity with no employees but having industrial insurance coverage is both an employer and an employee. When this chapter refers to "you," it means the employer or a designated representative.

"Hazard" means a condition that can cause injury, death, or occupational disease.

"Listed" means listed by a nationally recognized testing laboratory.

"Must" means mandatory.

"Nationally recognized testing laboratory" See 29 CFR 1910.7 (federal OSHA requirements).

"Pesticide" means:

- Any substance intended to prevent, destroy, control, repel, or mitigate any insect, rodent, snail, slug, fungus, weed, and any other form of plant or animal life or virus, except virus on or in a living person or other animal which is normally considered to be a pest or which the director may declare to be a pest;

- Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

- Any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier, or similar agent with or without toxic properties of its own, intended to be used with any pesticide as an aid to its application or effect, and sold in a package or container separate from that of the pesticide with which it is to be used.

"Safety factor" means the ratio of the ultimate breaking strength of a piece of material or equipment to the actual working stress or safe load when in use.

"Should" or "may" means recommended.

"Standard safeguard" means a device designed and constructed to remove a hazard related to the machine, appliance, tool, building, or equipment to which it is attached.

"Working day," for appeals and accident reporting, means a calendar day, except Saturdays, Sundays, and legal holidays as defined by RCW 1.16.050. To compute the time within which an act is to be completed, exclude the first working day and include the last.

**AMENDATORY SECTION** (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

**WAC 296-307-018 What are the employer's responsibilities?**

**You must:**

(1) Provide a safe and healthful working environment.

(2) Ensure that employees do not use defective or unsafe tools and equipment, including tools and equipment that may be furnished by the employee.

(3) Implement a written accident prevention program as required by these standards.

(4) Implement a hazard communication program as required by WAC 296-307-550.

(5) Establish a system for reporting and recording accidents on the OSHA 200 log. (See chapter 296-27 WAC.)

(6) Provide safety education and training programs.

(7) Implement the requirements of WAC 296-62-074 through 296-62-07451 to ensure the safety of employees who are exposed to cadmium in the workplace.

(8) Implement the requirements of WAC 296-62-145 through 296-62-14529 to ensure the safety of employees who are exposed to confined spaces in the workplace.

#### (9) Control chemical agents.

##### **You must:**

- Control chemical agents in a manner that they will not present a hazard to your workers; or
- Protect workers from the hazard of contact with, or exposure to, chemical agents.

**Reference:** Pesticides are chemical agents and are covered by chapter 296-307 WAC Part I, Pesticides (worker protection standard). Pesticides may also be covered by chapter 296-62 WAC Part E, Respiratory protection.

#### (10) Protect employees from biological agents.

##### **You must:**

- Protect employees from exposure to hazardous concentrations of biological agents that may result from processing, handling or using materials or waste.

**Note:** Examples of biological agents include:

- Animals or animal waste
- Body fluids
- Biological agents in a medical research lab
- Mold or mildew.

## NEW SECTION

### **WAC 296-307-03930 Make sure emergency washing facilities are functional and readily accessible.**

##### **You must:**

- Provide an emergency shower:
  - When there is potential for major portions of an employee's body to contact corrosives, strong irritants, or toxic chemicals
  - That delivers water to cascade over the user's entire body at a minimum rate of 20 gallons (75 liters) per minute for fifteen minutes or more.
- Provide an emergency eyewash:
  - When there is potential for an employee's eyes to be exposed to corrosives, strong irritants, or toxic chemicals
  - That irrigates and flushes both eyes simultaneously while the user holds their eyes open
  - With an on-off valve that activates in one second or less and remains on without user assistance until intentionally turned off
  - That delivers at least 0.4 gallons (1.5 liters) of water per minute for fifteen minutes or more.

**Note:** Chemicals that require emergency washing facilities:

- You can determine whether chemicals in your workplace require emergency washing facilities by looking at the material safety data sheet (MSDS) or similar documents. The MSDS contains information about first-aid requirements and emergency flushing of skin or eyes
- For chemicals developed in the workplace, the following resources provide information about first-aid requirements:
  - NIOSH Pocket Guide to Chemical Hazards
  - .\*DHHS (NIOSH) Publication No. 97-140
  - .\*<http://www.cdc.gov/niosh/ngdstart.html>
  - Threshold Limit Values for Chemical Substances and Physical Agents American Conference of Governmental Industrial Hygienists (ACGIH).

##### **You must:**

- Make sure emergency washing facilities:
  - Are located so that it takes no more than ten seconds to reach
    - Are kept free of obstacles blocking their use
    - Function correctly
    - Provide the quality and quantity of water that is satisfactory for emergency washing purposes.

**Note:** If water in emergency washing facilities is allowed to freeze, they will not function correctly. Precautions need to be taken to prevent this from happening

- The travel distance to an emergency washing facility should be no more than fifty feet (15.25 meters)
- For further information on the design, installation, and maintenance of emergency washing facilities, see American National Standards Institute (ANSI) publication Z358.1 - 1998, *Emergency Eyewash and Shower Equipment*. Emergency washing facilities that are designed to meet ANSI Z358.1 - 1998 also meet the requirements of this standard. The ANSI standard can be obtained from the American National Standards Institute, 1430 Broadway, New York, New York 10018.

**Reference:** Training in the location and use of your emergency washing facilities is required under the employer chemical hazard communication rule, WAC 296-307-550, and the accident prevention program rule, WAC 296-307-030.

## NEW SECTION

### **WAC 296-307-03935 Inspect and activate your emergency washing facilities.**

##### **You must:**

- Make sure all plumbed emergency washing facilities are inspected once a year to make sure they function correctly.

**Note:** Inspections should include:

- Examination of the piping
- Making sure that water is available at the appropriate temperature and quality
- Activation to check that the valves and other hardware work properly
- Checking the water flow rate.

##### **You must:**

- Make sure plumbed emergency eyewashes and handheld drench hoses are activated weekly to check the proper functioning of the valves, hardware, and availability of water
- Make sure all self-contained eyewash equipment and personal eyewash units are inspected and maintained according to manufacturer instructions.
  - Inspections to check proper operation must be done once a year

– Sealed personal eyewashes must be replaced after the manufacturer's expiration date.

**Note:** Most manufacturers recommend replacing fluid in open self-contained eyewashes every six months. The period for sealed containers is typically two years.

## NEW SECTION

### **WAC 296-307-03940 Make sure supplemental flushing equipment provides sufficient water.**

**Note:** Supplemental flushing equipment cannot be used in place of required emergency showers or eyewashes.

#### **You must:**

- Make sure hand-held drench hoses deliver at least 3.0 gallons (11.4 liters) of water per minute for fifteen minutes or more.

**Note:** Why use a drench hose? A drench hose is useful when:
 

- The spill is small and does not require an emergency shower
- Used with a shower for local rinsing, particularly on the lower extremities.

#### **You must:**

- Make sure personal eyewash equipment delivers only clean water or other medically approved eye flushing solutions.

## NEW SECTION

### **WAC 296-307-03945 Definitions.**

#### **Corrosive**

As used in first aid, WAC 296-307-039, is a substance that causes destruction of living tissue by chemical action, including acids with a pH of 2.5 or below or caustics with a pH of 11.0 or above.

#### **Emergency washing facilities**

Emergency washing facilities are emergency showers, eyewashes, eye/face washes, hand-held drench hoses, or other similar units.

#### **Hand-held drench hoses**

Hand-held drench hoses are single-headed emergency washing devices connected to a flexible hose that can be used to irrigate and flush the face or other body parts.

#### **Personal eyewash units**

Personal eyewash units are portable, supplementary units that support plumbed units or self-contained units, or both, by delivering immediate flushing for less than fifteen minutes.

#### **Strong irritant**

As used in first aid, WAC 296-307-039, is a chemical that is not corrosive, but causes a strong, temporary inflammatory effect on living tissue by chemical action at the site of contact.

#### **Toxic chemical**

As used in first aid, WAC 296-307-039, is a chemical that produces serious injury or illness when absorbed through any body surface.

**AMENDATORY SECTION** (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

**WAC 296-307-40013 What requirements apply to the construction, original test, and requalification of non-refrigerated containers?** The code is the Unfired Pressure Vessel Code of the American Society of Mechanical Engineers (Section VIII of the ASME Boiler Construction Code), 1952, 1956, 1959, 1962, 1965, 1968 and 1971 editions, the joint code of the American Petroleum Institute and the American Society of Mechanical Engineers (API-ASME Code) 1951 edition, and amendments or later editions, as adopted.

(1) Containers used with systems covered in WAC 296-307-40005 and 296-307-40007 must be constructed and tested according to the code.

**Exception:** Construction under Table UW-12 at a basic joint efficiency of under 80% is prohibited. Containers built according to code are exempt from paragraphs UG-125 to UG-128, inclusive, and paragraphs UG-132 and UG-133 of the code.

**Note:** This subsection allows the continued use or reinstallation of containers constructed and maintained according to the 1949, 1950, 1952, 1956, 1959, 1962, 1965 and 1968 editions of the Unfired Pressure Vessel Code of the ASME or any revisions thereof in effect at the time of fabrication.

(2) Containers more than 36 inches in diameter or 250 gallons water capacity must be constructed to meet one or more of the following requirements:

- (a) Containers must be stress relieved after fabrication according to the code; or
- (b) Cold-formed heads, when used, must be stress relieved; or
- (c) Hot-formed heads must be used.

(3) Welding to the shell, head, or any other part of the container subject to internal pressure must be according to the code. Other welding is permitted only on saddle plates, lugs, or brackets attached to the container by the container manufacturer.

**Containers used with systems covered in subsection (4) of this section must be constructed and tested in accordance with the DOT specifications.**

**(4) Containers must comply with department of transportation specifications and must be maintained, filed, packaged, marked, labeled and shipped to comply with current DOT regulations and American National Standard Method of Marking Portable Compressed Gas Containers to Identify the Material Contained, Z48.1-1954 R1970. See Appendix C for availability.**

**AMENDATORY SECTION** (Amending WSR 98-24-096, filed 12/1/98, effective 3/1/99)

**WAC 296-307-40015 How must nonrefrigerated containers and systems (other than DOT containers) be marked?** (1) System nameplates, when required, must be permanently attached to the system so they are readily accessible for inspection.

(2) Each container or system covered in WAC 296-307-40005 and 296-307-40007 must be marked as follows:

**EXPEDITED**

(a) With indication that the container or system meets the requirements of the code under which the container is constructed.

(b) With indication on the container and system nameplate when the system is designed for underground installation.

(c) With the name and address of the supplier of the container or the trade name of the container and with the date of fabrication.

(d) With the water capacity of the container in pounds at 60°F or gallons, United States standard.

(e) With the design pressure in pounds per square inch gauge.

(f) With the wall thickness of the shell and heads.

(g) With indication of the maximum fill level for liquid anhydrous ammonia between 20°F and 100°F. Markings must be in increments of not more than 20°F.

**Exception:** Containers with fixed maximum level indicators, such as fixed length dip tubes, or containers that are filled by weight are exempt from this requirement.

(h) With the outside surface area in square feet.

(i) With minimum temperature in Fahrenheit for which the container is designed.

(j) The marking must be on the container itself or on a permanently attached nameplate.

(3) All main operating valves on permanently installed containers with a capacity of over 3,000 water gallons must be identified to show whether the valve is in liquid or vapor service. The valve must be identified as follows:

(a) The word LIQUID (or LIQUID VALVE), VAPOR (or VAPOR VALVE), as appropriate, must be placed on or within twelve inches of the valve by means of a stencil tag or decal.

(b) Liquid valves must be painted orange and vapor valves must be painted yellow. The legend ORANGE-LIQUID, YELLOW-VAPOR must be displayed in one or more conspicuous places at each permanent storage location. The legend must have letters at least two inches high and must be placed against a contrasting background.

**(4) "Marking refrigerated containers."** Each refrigerated container must be marked with a name plate on the outer covering in an accessible place as specified in the following:

- With the notation, "Anhydrous Ammonia"
- With the name and address of the builder and the date of fabrication

- With the water capacity of the container in gallons, U.S. Standard

- With the design pressure
- With the minimum temperature in degrees Fahrenheit for which the container was designed

- The maximum allowable water level to which the container may be filled for test purposes

- With the density of the product in pounds per cubic foot for which the container was designed

- With the maximum level to which the container may be filled with liquid anhydrous ammonia.

**AMENDATORY SECTION** (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

**WAC 296-307-40027 What emergency precautions are required when handling anhydrous ammonia?** (1) You must train employees required to handle ammonia in the safe operating practices and the proper action to take in an emergency. Employees must be instructed to use the equipment listed in subsection (3) of this section in an emergency.

(2) If ammonia system leaks, the employees trained for and designated to act in emergencies must:

(a) See that anyone not required to deal with an emergency is evacuated from the contaminated area.

(b) ~~((Put on a suitable gas mask.))~~ Two suitable gas masks in readily accessible locations. Full face masks with ammonia canisters as certified by NIOSH under 42 CFR Part 84, are suitable for emergency action for most leaks, particularly those that occur outdoors. For protection in concentrated ammonia atmospheres, self-contained breathing apparatus is required.

(c) Wear gauntlet type plastic or rubber gloves and wear plastic or rubber suits in heavily contaminated atmospheres.

(d) Shut off the appropriate valves.

(3) All storage systems must have on hand at least the following equipment for emergency and rescue purposes:

(a) \*One full face gas mask with anhydrous ammonia refill canisters.

(b) \*\*One pair of protective gloves.

(c) \*\*One pair of protective boots.

(d) \*\*One protective slicker and/or protective pants and jacket.

(e) Easily accessible shower and/or at least 50 gallons of clean water in an open top container.

(f) Tight-fitting vented goggles or one full face shield.

\*An ammonia canister is effective for short periods of time in light concentrations of ammonia vapor, generally fifteen minutes in concentrations of 3% and will not protect breathing in heavier concentrations. If ammonia vapors are detected when mask is applied, the concentration is too high for safety. The life of a canister in service is controlled by the percentage of vapors to which it is exposed. Canisters must not be opened until ready for use and should be discarded after use. Unopened canisters may be guaranteed for as long as three years and all should be dated when received. In addition, an independently supplied air mask of the type used by fire departments may be used for severe emergencies.

\*\*Gloves, boots, slickers, jackets, and pants must be made of rubber or other material impervious to ammonia.

(4) Where several persons are usually present, additional safety equipment may be necessary.

(5) Each tank motor vehicle transporting anhydrous ammonia, except farm applicator vehicles, must carry a container of at least five gallons of water and must have a full face gas mask, a pair of tight-fitting goggles or one full face shield. The driver must be instructed in their use and the proper action to take to provide for the driver's safety.

(6) If a leak occurs in transportation equipment and it is impractical to stop the leak, the driver should move the vehicle to an isolated location.

(7) If liquid ammonia contacts the skin or eyes, the affected area should be promptly and thoroughly flushed with water. Do not use neutralizing solutions or ointments on affected areas. A physician must treat all cases of eye exposure to liquid ammonia.

## DIPPING AND COATING OPERATIONS (DIP TANKS)

### NEW SECTION

#### **WAC 296-307-445 Scope.**

##### **IMPORTANT:**

A **dip tank** is a container holding a liquid other than plain water that is used for dipping or coating. An object may be completely or partially immersed (in a dip tank) or it may be suspended in a vapor coming from the tank.

**Exemption:** Dip tanks that use a molten material (molten metal, alloy, salt, etc.) are not covered by this chapter.

This chapter applies to:

- A dip tank that uses a liquid other than plain water, or the vapor of the liquid, to:

- Clean an object
- Coat an object
- Alter the surface of an object

**OR**

- Change the character of an object.

- Draining or drying an object that has been dipped or coated.

Examples of covered dipping and coating operations include, but are not limited to:

- Paint dipping
- Anodizing
- Pickling
- Quenching
- Tanning
- Degreasing
- Stripping
- Cleaning
- Dyeing.

**Reference:** You have to do a hazard assessment to identify hazards or potential hazards in your workplace and determine if PPE is necessary to protect your employees. See personal protective equipment (PPE), WAC 296-307-100 through 296-307-10025.

### AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

#### **WAC 296-307-450 ((Other hazardous materials.))**

##### **General requirements.**

###### **Summary.**

###### **Your responsibility:**

Safeguard employees working with dip tanks.

###### **You must:**

###### **CONSTRUCTION**

Construct safe dip tanks

WAC 296-307-45005

### **VENTILATION**

Provide proper ventilation for the vapor area

WAC 296-307-45010

Take additional precautions if you recirculate ventilation system exhaust air into the workplace

WAC 296-307-45015

Take additional precautions when using an exhaust hood

WAC 296-307-45020

### **INSPECTION**

Periodically inspect your dip tanks and associated equipment and correct any deficiencies

WAC 296-307-45025

### **FIRST AID**

Make sure employees working near dip tanks know appropriate first-aid procedures

WAC 296-307-45030

### **CLEANING**

Prepare dip tanks before cleaning

WAC 296-307-45035

### **WELDING**

Protect employees during welding, burning or other work using open flames

WAC 296-307-45045

### **LIQUIDS HARMFUL TO SKIN**

Provide additional protection for employees working near dip tanks that use liquid that may burn, irritate, or otherwise harm the skin

WAC 296-307-45050

## **CONSTRUCTION**

### AMENDATORY SECTION (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

**WAC 296-307-45005 ((What definitions apply to this section?)) Construct safe dip tanks.** ((Dip tank" means a tank, vat, or container of flammable or combustible liquid in which articles or materials are immersed for coating, finishing, treating, or similar processes.

"Vapor area" means any area containing dangerous quantities of flammable vapors in the vicinity of dip tanks, drainboards or other drying, conveying, or other equipment during operation or shutdown.))

##### **You must:**

- Make sure dip tanks, including any drain boards, are strong enough to support the expected load.

### **VENTILATION**

### NEW SECTION

**WAC 296-307-45010 Provide proper ventilation for the vapor area.**

##### **You must:**

- Make sure mechanical ventilation meets the requirements of one or more of the following standards:

- NFPA 34-1995, Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids

**EXPEDITED**

- ACGIH's "Industrial Ventilation: A Manual of Recommended Practice" (22nd ed., 1995)
- ANSI Z9.1-1971, Practices for Ventilation and Operation of Open-Surface Tanks and ANSI Z9.2-1979, Fundamentals Governing the Design and Operation of Local Exhaust Systems.

**Note:** Some, or all, of the consensus standards (such as ANSI and NFPA) may have been revised. If you comply with a later version of a consensus standard, you will be considered to have complied with any previous version of the same consensus standard.

**You must:**

- Limit the vapor area to the smallest practical space by using mechanical ventilation
- Keep airborne concentration of any substance below twenty-five percent of its lower flammable limit (LFL)
- Make sure mechanical ventilation draws the flow of air into a hood or exhaust duct
- Have a separate exhaust system for each dip tank if the combination of substances being removed could cause a:

- Fire
- Explosion

**OR**

- Potentially hazardous chemical reaction.

**Reference:** You need to keep employee exposure within safe levels when the liquid in a dip tank creates an exposure hazard. See Air contaminants, WAC 296-62-075 through 296-62-07515.

**Note:** You may use a tank cover or material that floats on the surface of the liquid to replace or assist ventilation. The method or combination of methods you choose has to maintain the airborne concentration of the hazardous material and the employee's exposure within safe limits.

**AMENDATORY SECTION** (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

**WAC 296-307-45015 ((How must liquids used in dip tanks be stored and handled?)) Take additional precautions if you recirculate ventilation system exhaust air into the workplace.** ((The storage of flammable and combustible liquids in connection with dipping operations must meet the requirements of the National Fire Protection Association Standard for Drycleaning Plants, NFPA No. 32-1970; the National Fire Protection Association Standard for the Manufacture of Organic Coatings, NFPA No. 35-1970; the National Fire Protection Association Standard for Solvent Extraction Plants, NFPA No. 36-1967; and the National Fire Protection Association Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines, NFPA No. 37-1970.

Where portable containers are used to replenish flammable and combustible liquids, you must ensure that both the container and tank are positively grounded and electrically bonded to prevent static electric sparks.))

**You must:**

- Only recirculate air that contains no substance at a concentration that could pose a health or safety hazard to employees
- Make sure any exhaust system that recirculates air into the workplace:

- Passes the air through a device that removes contaminants
- Sounds an alarm and automatically shuts down the dip tank operation, if the vapor concentration of any substance in the exhaust air exceeds twenty-five percent of its LFL
- Monitors the concentration of vapor from flammable or combustible liquids with approved equipment.

**Note:**

- The LFL concentration in the air must be determined after the air passes through the air-cleaning device and before the air reenters the workspace
- Most substances will pose a health hazard at a concentration far below twenty-five percent of its LFL.

**NEW SECTION**

**WAC 296-307-45020 Take additional precautions when using an exhaust hood.**

**You must:**

- Make sure each room with an exhaust hood has a source of outside air that:
  - Enters the room in a way that will not interfere with the function of the hood
  - Replaces at least ninety percent of the air taken in through the hood.

**INSPECTION**

**AMENDATORY SECTION** (Amending WSR 97-09-013, filed 4/7/97, effective 4/7/97)

**WAC 296-307-45025 ((What requirements apply to flow-coat applications?)) Periodically inspect your dip tanks and associated equipment and correct any deficiencies.** ((1) All dip tank requirements must apply to flow-coat operations.

((2) All piping must be strongly erected and rigidly supported.

((3) Paint must be supplied by direct low pressure pumping arranged to automatically shut down by an approved heat actuated device in the case of fire, or paint may be supplied by a gravity tank with a maximum capacity of 10 gallons.

((4) The sump area and any areas on which paint flows should be considered the area of dip tank.))

**You must:**

- Inspect or test your dip tanks and associated equipment periodically, including:
  - Covers
  - Overflow pipes
  - Bottom drains and valves
  - Electrical wiring, equipment, and grounding connections
  - Ventilating systems
  - Fire extinguishing equipment.
- Inspect the hoods and ductwork of the ventilation system for corrosion and damage and make sure the airflow is adequate:
  - At least quarterly during operation
  - Prior to operation after a prolonged shutdown.
  - Promptly fix any deficiencies found.

- Note:**
- To assist you in tracking your inspections and actions taken from those inspections, you may want to keep a written record
  - It is recommended that inspections be at least quarterly even if the system is not operating. Depending on the chemicals in use more frequent inspection may be required.

## FIRST AID

### NEW SECTION

#### **WAC 296-307-45030 Make sure employees working near dip tanks know appropriate first-aid procedures.**

##### **You must:**

- Make sure your employees know the appropriate first-aid procedures for the hazards of your dipping and coating operations.

**Note:**

- First-aid procedures are contained in the material safety data sheet (MSDS) for the chemicals used in the dip tank
- First-aid supplies appropriate for the hazards of the dipping or coating operation need to be located near the dip tank to be considered "readily available" as required by WAC 296-307-0390.

**Reference:** There are additional requirements that may include providing emergency washing facilities and employee training. See first aid, WAC 296-307-039, and employer chemical hazard communication, WAC 296-307-550.

## CLEANING

### NEW SECTION

#### **WAC 296-307-45035 Prepare dip tanks before cleaning. You must:**

- (1) Drain the contents of the tank and open any cleanout doors.
- (2) Ventilate the tank to clear any accumulated hazardous vapors.

**Reference:** There may be requirements that apply before an employee enters a dip tank. See Permit-required confined spaces, WAC 296-62-141 and safety procedures, WAC 296-307-320.

## WELDING

### NEW SECTION

#### **WAC 296-307-45045 Protect employees during welding, burning, or other work using open flames.**

##### **You must:**

- Make sure the dip tank and the area around it are thoroughly cleaned of solvents and vapors before performing work involving:

- Welding
- Burning

**OR**

- Open flames.

**Reference:** There are additional requirements for this type of work. See Welding, cutting and brazing, WAC 296-307-475, and Respiratory protection, chapter 296-62 WAC, Part E.

## LIQUIDS HARMFUL TO SKIN

### NEW SECTION

#### **WAC 296-307-45050 Protect employees that use liquids that may burn, irritate, or otherwise harm the skin.**

##### **You must:**

- (1) Make sure washing facilities, including hot water, are available for every ten employees that work with dip tank liquids.

##### **(2) Satisfy medical requirements:**

- Make sure an employee with any small skin abrasion, cut, rash, or open sore receives treatment by a properly designated person
- Make sure an employee with a sore, burn, or other skin lesion that needs medical treatment, has a physician's approval before they perform their regular work
- Make sure employees who work with chromic acid receive periodic examinations of their exposed body parts, especially their nostrils.

**Note:**

- Periodic means on a yearly basis unless otherwise indicated

- Any time chromic acid spills onto an employee's skin or their clothing is saturated, a physician should be responsible for evaluating and monitoring the area where chromic acid made contact with the skin.

##### **You must:**

- (3) Provide lockers or other storage space to prevent contamination of street clothes.

**Reference:** You have to do a hazard assessment to identify hazards or potential hazards in your workplace and determine if PPE is necessary to protect your employees. See Personal protective equipment (PPE), WAC 296-307-100.

### NEW SECTION

#### **WAC 296-307-455 Additional requirements for dip tanks using flammable or combustible liquids.**

##### **Summary.**

##### **IMPORTANT:**

This section applies to:

- Flammable and combustible liquids (flashpoint below 200°F)
- Liquids that have a flashpoint of 200°F (93.3°C) or higher if you:
  - Heat the liquid
  - Dip a heated object in the tank

##### **Your responsibility:**

Safeguard employees working with dip tanks containing flammable or combustible liquids

##### **You must:**

##### **CONSTRUCTION**

Include additional safeguards when constructing dip tanks

##### **WAC 296-307-45505**

Provide overflow pipes

##### **WAC 296-307-45510**

Provide bottom drains

**WAC 296-307-45515**

#### FIRE PROTECTION

Provide fire protection in the vapor area

**WAC 296-307-45520**

Provide additional fire protection for large dip tanks

**WAC 296-307-45525**

#### ELECTRICAL WIRING AND EQUIPMENT AND SOURCES OF IGNITION

Prevent static electricity sparks or arcs when adding liquids to a dip tank

**WAC 296-307-45535**

Control ignition sources

**WAC 296-307-45540**

Provide safe wiring and electrical equipment where the liquid can drip or splash

**WAC 296-307-45545**

#### HOUSEKEEPING

Keep the area around dip tanks clear of combustible material and properly dispose of waste

**WAC 296-307-45550**

#### HEATING LIQUID

Make sure heating the liquid in your dip tanks does not cause a fire

**WAC 296-307-45555**

#### HEAT DRYING

Make sure a heating system used for drying objects does not cause a fire

**WAC 296-307-45560**

#### CONVEYORS

Make sure the conveyor system for dip tanks is safe

**WAC 296-307-45565**

### CONSTRUCTION

#### NEW SECTION

#### **WAC 296-307-45505 Include additional safeguards when constructing dip tanks.**

##### You must:

- (1) Make sure the dip tank, drain boards (if provided), and supports are made of noncombustible material.

- (2) Make sure piping connections on drains and overflow pipes allow easy access to the inside of the pipe for inspection and cleaning.

#### NEW SECTION

#### **WAC 296-307-45510 Provide overflow pipes.**

##### You must:

- Provide an overflow pipe on dip tanks that:
  - Hold more than one hundred fifty gallons of liquid
- OR
  - Have more than ten square feet of liquid surface area.
- Make sure the overflow pipe is:
  - Properly trapped
  - Able to prevent the dip tank from overflowing
  - Three inches or more (7.6 cm) in diameter
  - Discharged to a safe location.

**Note:** Discharged to a safe location could be a:

- Safe location outside the building

OR

- Closed, properly vented salvage tank or tanks that can hold more than the dip tank.

##### You must:

- Make sure the bottom of the overflow pipe is at least six inches (15.2 cm) below the top of the tank..

**Note:**

The overflow pipe should be large enough to remove water applied to the liquid surface of the dip tank from automatic sprinklers or other sources in the event of fire. Smaller dip tanks should be equipped with overflow pipes, if practical.

#### NEW SECTION

#### **WAC 296-307-45515 Provide bottom drains.**

**Exemption:** A bottom drain is not required if:

- The viscosity of the liquid makes it impractical to empty the tank by gravity or pumping
- OR
- The dip tank has an automatic closing cover that meets the requirements of WAC 296-307-45530.

##### You must:

- Provide a bottom drain on all dip tanks that hold more than five hundred gallons of liquid

• Make sure the bottom drain:

- Is properly trapped
- Will empty the dip tank during a fire
- Has pipes large enough to empty the tank within five minutes
- Uses automatic pumps if gravity draining is not practical
- Is capable of both manual and automatic operation
- Discharges to a safe location.

**Note:** Discharges to a safe location could be a:

- Safe location outside the building

OR

- Closed, properly vented salvage tank or tanks that can hold more than the dip tank.

##### You must:

- Make sure manual operation of the bottom drain is performed from a safe and easily accessible location.

### FIRE PROTECTION

#### NEW SECTION

#### **WAC 296-307-45520 Provide fire protection in the vapor area.**

##### You must:

- Provide a manual fire extinguisher near the tank that is suitable for putting out flammable and combustible liquid fires.

#### NEW SECTION

#### **WAC 296-307-45525 Provide additional fire protection for large dip tanks.**

##### You must:

- Provide at least one automatic fire extinguishing system or an automatic dip tank cover if the tank:
  - Holds one hundred fifty gallons or more of liquid

**OR**

- Has four square feet or more of liquid surface area.
- Make sure automatic fire extinguishing systems or automatic dip tank covers meet the requirements of Table 1.

- Exemption:** An automatic fire extinguishing system or an automatic dip tank cover is not required for a hardening or tempering tank that:
- Holds less than five hundred gallons
  - OR
  - Has less than twenty-five square feet of liquid surface area.

**Table 1: Automatic Fire Protection System Requirements**

If you provide:	Then you must:
An automatic fire extinguishing system	<ul style="list-style-type: none"> <li>• Use extinguishing materials suitable for a fire fueled by the liquid in the tank</li> <li>• Make sure the system protects the:           <ul style="list-style-type: none"> <li>- Tanks</li> <li>- Drain boards</li> <li>- Stock over drain boards.</li> </ul> </li> </ul>
A dip tank cover	<ul style="list-style-type: none"> <li>• Make sure the cover is:           <ul style="list-style-type: none"> <li>- Closed by approved automatic devices in the event of fire</li> <li>- Able to be manually activated</li> <li>- Kept closed when the tank is not being used</li> <li>- Made of noncombustible material or metal-clad material with locked metal joints.</li> </ul> </li> </ul>

**ELECTRICAL WIRING AND EQUIPMENT AND SOURCES OF IGNITION****NEW SECTION****WAC 296-307-45535 Prevent static electricity sparks or arcs when adding liquids to a dip tank.****You must:**

- Make sure any portable container used to add liquid to the tank is:
  - Electrically bonded to the dip tank
  - Positively grounded.

**NEW SECTION****WAC 296-307-45540 Control ignition sources.****You must:**

(1) Make sure the vapor areas and adjacent areas do not have any:

- Open flames
- Spark producing devices
- Heated surfaces hot enough to ignite vapors.

(2) Use explosion-proof wiring and equipment in the vapor area.

**Reference:** Electrical wiring and equipment has to meet the requirements of the applicable hazardous (classified) location. See Hazardous (classified) locations, WAC 296-307-37209.

**You must:**

(3) Prohibit smoking in any vapor area:

- Post an easily seen "NO SMOKING" sign near each dip tank.

**NEW SECTION****WAC 296-307-45545 Provide safe electrical wiring and equipment where the liquid can drip or splash.****You must:**

- Make sure all electrical wiring and equipment in the vapor area is approved for areas that have:
  - Deposits of easily ignited residue
  - Explosive vapor.

**Exemption:** This does not apply to wiring that is:

- In rigid conduit, threaded boxes or fittings
- Has no taps, splices, or terminal connections.

**HOUSEKEEPING****NEW SECTION****WAC 296-307-45550 Keep the area around dip tanks clear of combustible material and properly dispose of waste.****You must:**

(1) Make sure the area surrounding dip tanks is:

- Completely free of combustible debris
- As free of combustible stock as possible.

(2) Provide approved metal waste cans that are:

- Used for immediate disposal of rags and other material contaminated with liquids from dipping or coating operations
- Emptied and the contents properly disposed of at the end of each shift.

**HEATING LIQUID****NEW SECTION**

**WAC 296-307-45555 Make sure heating the liquid in your dip tanks does not cause a fire.**

**You must:**

- Keep the temperature of the liquid in the dip tank:
  - Below the liquid's boiling point
  - At least 100°F below the liquid's autoignition temperature.

**HEAT DRYING****NEW SECTION**

**WAC 296-307-45560 Make sure a heating system used for drying objects does not cause a fire.**

**You must:**

- Make sure the heating system used in a drying operation that could cause ignition:
  - Has adequate mechanical ventilation that operates before and during the drying operation
  - Shuts down automatically if a ventilating fan fails to maintain adequate ventilation
  - Is installed as required by NFPA 86-1999, Standard for Ovens and Furnaces.

**Note:** Some, or all, of the consensus standards (such as ANSI and NFPA) may have been revised. If you comply with a later version of a consensus standard, you will be considered to have complied with any previous version of the same consensus standard.

**CONVEYORS****NEW SECTION**

**WAC 296-307-45565 Make sure conveyor systems are safe.**

**You must:**

- Make sure the conveyor system shuts down automatically if:
  - The ventilation system fails to maintain adequate ventilation
  - There is a fire.

**NEW SECTION**

**WAC 296-307-460 Additional requirements for dip tanks used for specific processes.**

**Summary.****Your responsibility:**

Safeguard employees working with dip tanks used for specific processes

**You must:****HARDENING OR TEMPERING**

Meet specific requirements if you use a hardening or tempering tank

**WAC 296-307-46005**

**VAPOR DEGREASING**

Provide additional safeguards for vapor degreasing tanks  
**WAC 296-307-46025**

**SPRAY CLEANING OR DEGREASING**

Control liquid spray over an open surface cleaning or degreasing tank  
**WAC 296-307-46030**.

**HARDENING OR TEMPERING****NEW SECTION**

**WAC 296-307-46005 Meet specific requirements if you use a hardening or tempering tank.**

**You must:**

(1) Provide an automatic fire extinguishing system or an automatic dip tank cover for any hardening and tempering tank that uses flammable or combustible liquids and:

- Holds five hundred gallons (1893 L) or more of liquid
- OR**

– Has twenty-five square feet ( $2.37 \text{ m}^2$ ) or more of liquid surface area.

**(2) Prevent fires.**

• Make sure hardening and tempering tanks are:

- Not located on or near combustible flooring
- Located as far away as practical from furnaces
- Equipped with noncombustible hoods and vents (or equally effective devices) for venting to the outside.

• Treat vent ducts as flues and keep them away from combustible material, particularly roofs.

**(3) Make sure air under pressure is not used to:**

- Fill the tank

**OR**

- Agitate the liquid in the tank.

(4) Equip each tank with an alarm that will sound when the temperature is within 50°F (10°C) of the liquid's flash-point (alarm set point).

(5) Make sure a limit switch shuts down conveyors supplying work to the tank when the temperature reaches the alarm setpoint, if operationally practical.

(6) Have a circulating cooling system if the temperature of the liquid can exceed the alarm set point.

**Note:** The bottom drain of the tank may be combined with the oil circulating system if the requirements for bottom drains in WAC 296-307-45515 are satisfied.

**VAPOR DEGREASING****NEW SECTION**

**WAC 296-307-46025 Provide additional safeguards for vapor degreasing tanks.**

**You must:**

(1) Make sure, if the tank has a condenser or a vapor-level thermostat, that it keeps the vapor level at least:

- Thirty-six inches (91 cm) below the top of the tank if the width of the tank is seventy-two inches or more

**OR**

- One-half the tank width below the top of the tank if the tank is less than seventy-two inches wide.

(2) Make sure, if you use gas as a fuel to heat the tank liquid, that the combustion chamber is airtight (except for the flue opening) to prevent solvent vapors from entering the air-fuel mixture.

(3) Make sure the exhaust flue:

- Is made of corrosion-resistant material
- Extends to the outside
- Has a draft diverter if mechanical exhaust is used.

(4) Take special precautions to keep solvent vapors from mixing with the combustion air of the heater if chlorinated or fluorinated hydrocarbon solvents (for example, trichloroethylene or freon) are used in the dip tank.

(5) Keep the temperature of the heating element low enough to keep a solvent or mixture from:

- Decomposing
- OR
- Generating excessive vapor.

## SPRAY CLEANING OR DEGREASING

### NEW SECTION

#### **WAC 296-307-46030 Control liquid spray over an open surface cleaning or degreasing tank.**

**You must:**

- Control the spray to the greatest extent feasible by:
  - Enclosing the spraying operation as completely as possible
  - Using mechanical ventilation to provide enough inward air velocity to prevent the spray from leaving the vapor area.

**Note:** Mechanical baffles may be used to help prevent the discharge of spray.

**Reference:** Spray painting operations are covered in Spray-finishing operations, WAC 296-62-11019.

### NEW SECTION

#### **WAC 296-307-465 Definitions.**

**ACGIH:** American Conference of Governmental Industrial Hygienists.

**Adjacent area:** Any area within twenty feet (6.1 m) of a vapor area that is not separated from the vapor area by tight partitions.

**ANSI:** American National Standards Institute.

**Approved:** Approved or listed by a nationally recognized testing laboratory. Refer to federal regulation 29 CFR 1910.7, for definition of nationally recognized testing laboratory.

**Autoignition temperature:** The minimum temperature required to cause self-sustained combustion without any other source of heat.

**Combustible liquid:** A liquid having a flashpoint of at least 100°F (37.8°C) and below 200°F (93.3°C). Mixtures with at least ninety-nine percent of their components having flashpoints of 200°F (93.3°C) or higher are not considered combustible liquids.

**Deteaming:** A process for removing excess wet coating material from the bottom edge of a dipped or coated object or material by passing it through an electrostatic field.

**Dip tank:** A container holding a liquid other than plain water that is used for dipping or coating. An object may be immersed (or partially immersed) in a dip tank or it may be suspended in a vapor coming from the tank.

**Flammable liquid:** Any liquid having a flashpoint below 100°F (37.8°C), except any mixture having components with flashpoints of 100°F (37.8°C) or higher, the total of which make up ninety-nine percent or more of the total volume of the mixture.

**Flashpoint:** The minimum temperature at which a liquid gives off a vapor in sufficient concentration to ignite when tested by any of the measurement methods described in the definition of flashpoint in WAC 296-307-55060.

**Lower flammable limit:** The lowest concentration of a material that will propagate a flame. The LFL is usually expressed as a percent by volume of the material in air (or other oxidant).

**NFPA:** National Fire Protection Association.

**Vapor area:** Any area in the vicinity of dip tanks, their drain boards or associated drying, conveying, or other equipment where the vapor concentration could exceed twenty-five percent of the lower flammable limit (LFL) for the liquid in the tank.

**You:** Means the employer.

### AMENDATORY SECTION (Amending WSR 01-17-033, filed 8/8/01, effective 9/1/01)

#### **WAC 296-307-55030 Inform and train your employees about hazardous chemicals in your workplace.**

**Note:** The employer chemical hazard communication information and training requirements also apply to pesticides. Employers who have employees who are exposed to pesticides must be in compliance with this rule and the worker protection standards, WAC 296-307-12040.

**You must:**

- Provide employees with effective information on hazardous chemicals in their work area at the time of their initial job assignment. Whenever a new physical or health hazard related to chemical exposure is introduced into their employees' work areas, information must be provided.

– Inform employees of:

- ♦ The requirements of this rule.
- ♦ Any operations in their work area where hazardous chemicals are present.

- ♦ The location and availability of your written Chemical Hazard Communication Program, including the list(s) of hazardous chemicals and material safety data sheets (MSDSs) required by this rule.

- Provide employees with effective training about hazardous chemicals in their work area at the time of their initial job assignment. Whenever a new physical or health hazard related to chemical exposure is introduced, the employees must be trained.

– Make sure that employee training includes:

– Methods and observations that may be used to detect the presence or release of a hazardous chemical in the work area. Examples of these methods and observations may include:

- ◆ Monitoring conducted by you
- ◆ Continuous monitoring devices
- ◆ Visual appearance or odor of hazardous chemicals when being released

((◆)) = Physical and health hazards of the chemicals in the work area, including the likely physical symptoms or effects of overexposure

((◆)) = Steps employees can take to protect themselves from the chemical hazards in your workplace, including specific procedures implemented by you to protect employees from exposure to hazardous chemicals. Specific procedures may include:

- Appropriate work practices
- Engineering controls
- Emergency procedures
- Personal protective equipment to be used

((■)) = Details of the Chemical Hazard Communication Program developed by you, including an explanation of the labeling system and the MSDS, and how employees can obtain and use the appropriate hazard information.

• Tailor information and training to the types of hazards to which employees will be exposed. The information and training may be designed to cover categories of hazards, such as flammability or cancer-causing potential, or it may address specific chemicals. Chemical-specific information must always be available through labels and MSDSs.

• Make reasonable efforts to post notices in your employees' native languages (as provided by the department) if those employees have trouble communicating in English.

- Note:**
- Interactive computer-based training or training videos can be used provided they are effective.
  - Your MSDSs may not have WISHA permissible exposure limits (PELs) listed. In some cases, WISHA PELs are

stricter than the OSHA PELs and other exposure limits listed on the MSDSs you receive. If this is the case, you must refer to the WISHA PEL table, WAC 296-62-075, for the appropriate exposure limits to be covered during training.

## CONTENT AND DISTRIBUTION OF MATERIAL SAFETY DATA SHEETS (MSDSs) AND LABEL INFORMATION

### NEW SECTION

**WAC 296-307-560 Scope.** This chapter sets minimum requirements for content and distribution of material safety data sheets (MSDSs) and labels for hazardous chemicals.

• This chapter applies when you do **one or more** of the following:

- Import, produce, or repackage chemicals, including manufactured items (such as bricks, welding rods, and sheet metal) that are not exempt as articles
- Sell or distribute hazardous chemicals to manufacturers, distributors or employers
- Choose not to rely on material safety data sheets (MSDSs) provided by the importer, manufacturer or distributor.

**Note:** • You are not required to evaluate chemicals or create MSDSs for chemicals you did not produce or import. If you decide to evaluate chemicals or create MSDSs, then the requirements of this chapter will apply to you.

• Use Table 2 to determine which sections in this chapter apply to your workplace.

**Exemptions:** • All of the following are **always** exempt from this chapter:

- Ionizing and nonionizing radiation
- Biological hazards
- Tobacco and tobacco products
- The chemicals and items listed in Table 1 are exempt from this chapter under the conditions specified.

**Table 1**  
**Conditional Exemptions from this chapter**

This chapter does NOT apply to	When
<ul style="list-style-type: none"> <li>• Alcoholic beverages</li> <li>OR</li> <li>• Foods</li> </ul>	<ul style="list-style-type: none"> <li>• Sold, used, or prepared in a retail establishment (such as a grocery store, restaurant, bar, or tavern)</li> </ul>
<ul style="list-style-type: none"> <li>• An article (manufactured item)</li> </ul>	<ul style="list-style-type: none"> <li>• It is not a fluid or particle</li> <li>AND</li> <li>• It is formed to a specific shape or design during manufacture for a particular end use function<sup>1</sup></li> <li>AND</li> <li>• It releases only trace amounts of a hazardous chemical during normal use AND does not pose a physical or health risk to employees</li> </ul>
<ul style="list-style-type: none"> <li>• Consumer products           <ul style="list-style-type: none"> <li>– Produced or distributed for sale meeting the definition of "consumer products" in the Consumer Product Safety Act (see U.S. Code, Title 15, Chapter 47, section 2052<sup>2</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Both criteria apply:           <ul style="list-style-type: none"> <li>– They are used in the workplace for the same purpose as intended by the manufacturer or importer</li> </ul> </li> </ul>

**Table 1**  
**Conditional Exemptions from this chapter**

This chapter does NOT apply to	When
<b>OR</b> <ul style="list-style-type: none"> <li>• Hazardous household products           <ul style="list-style-type: none"> <li>– Meeting the definition of "hazardous substances" in the Federal Hazardous Substance Act (see U.S. Code, Title 15, Chapter 30, section 1261<sup>2</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>– The duration and frequency of an employee's exposure is no more than the range of exposures that consumers might reasonably experience</li> </ul>
<ul style="list-style-type: none"> <li>• Cosmetics</li> <li>• Drugs           <ul style="list-style-type: none"> <li>– Meeting the definition for "drugs" in the Federal Food, Drug, and Cosmetic Act (see U.S. Code, Title 21, Chapter 9, Subchapter II, section 321<sup>2</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Packaged and sold in retail establishments</li> <li>• In solid, final form (for example, tablets, or pills) for direct administration to the patient</li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>• Packaged and sold in retail establishments (for example, over-the-counter drugs)</li> <li>• Intended for employee consumption while in the workplace (for example, first-aid supplies)</li> </ul>
<ul style="list-style-type: none"> <li>• Hazardous solid wastes           <ul style="list-style-type: none"> <li>– Meeting the definition of "hazardous wastes" in the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (see U.S. Code, Title 42, Chapter 82, Subchapter I, section 6903<sup>2</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subject to the United States Environmental Protection Agency (EPA) regulations<sup>3</sup></li> </ul>
<ul style="list-style-type: none"> <li>• Hazardous substances           <ul style="list-style-type: none"> <li>– Released into the environment, meeting the definition of "hazardous substances" in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) (see U.S. Code, Title 42, Chapter 103, Subchapter I, section 9601<sup>2</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• They are the focus of remedial or removal action being conducted under CERCLA in accordance with EPA regulations (Title 40 of the Code of Federal Regulations (CFR)<sup>3</sup>)</li> </ul>
<ul style="list-style-type: none"> <li>• Hazardous wastes           <ul style="list-style-type: none"> <li>– Meeting the definition of "dangerous wastes" in the Hazardous Waste Management Act (see chapter 70.105 RCW<sup>4</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subject to department of ecology regulations, chapter 173-303 WAC<sup>5</sup>, that address the accumulation, handling and management of hazardous waste, and describe all of the following:           <ul style="list-style-type: none"> <li>– Safety</li> <li>– Labeling</li> <li>– Personnel training</li> <li>– And other related requirements</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Solid wood</li> <li><b>OR</b></li> <li>• Wood products (for example, lumber, and paper)</li> </ul>	<ul style="list-style-type: none"> <li>• All of the following apply:           <ul style="list-style-type: none"> <li>– The material is not treated with hazardous chemicals</li> <li>– The only hazard is potential flammability or combustibility</li> <li>– The product is not expected to be processed (for example, by sanding or sawing)</li> </ul> </li> </ul>

<sup>1</sup>End use is dependent in whole, or in part, upon maintaining the item's original shape or design. If the item will be significantly altered from its original form, it can no longer be considered a manufactured item.

<sup>2</sup>This federal act is included in the United States Code. See <http://www.access.gpo.gov/uscode/uscmain.html>.

<sup>3</sup>EPA regulations are included in the Code of Federal Regulations (CFR). See <http://www.epa.gov>.

<sup>4</sup>This state act is included in the Revised Code of Washington (RCW). The RCW compiles all permanent laws of the state. See <http://www.leg.wa.gov/wsladm/default.htm>.

<sup>5</sup>See <http://www.ecy.wa.gov>.

Use Table 2 to find out which sections of this chapter apply to you. For example, if you import AND sell hazardous chemicals **ALL** sections apply. WAC 296-307-56050 applies to all employers covered by the scope of this chapter.

<b>If you</b>	<b>Then the sections marked with an "X" apply</b>			
	<b>56010 - 56015</b>	<b>56025</b>	<b>56030 - 56035</b>	<b>56045</b>
• Import or produce chemicals	X	X		
• Sell or distribute hazardous chemicals to – Manufacturers OR – Distributors OR – Employers (includes retail or wholesale transactions)			X	X
• Choose to NOT rely on MSDSs provided by the importer, manufacturer or distributor	X	X		

#### NEW SECTION

##### **WAC 296-307-56005 Hazard evaluation.**

###### **Your responsibility:**

To make sure the hazardous chemicals are identified.

###### **You must:**

Conduct complete hazard evaluations

###### **WAC 296-307-56010**

Provide access to hazard evaluation procedures

###### **WAC 296-307-56015.**

#### NEW SECTION

##### **WAC 296-307-56010 Conduct complete hazard evaluations.**

###### **IMPORTANT:**

• Hazard evaluation is a process where hazards of chemicals are identified by reviewing available research or testing information. You are not required to perform your own laboratory research or testing to meet the requirements of this section

– Information from hazard evaluations is used to complete material safety data sheets (MSDSs) and labels

– MSDSs from your suppliers may be used to complete the hazard evaluation for chemicals you produce

– MSDSs and labels are **NOT** required for chemicals that are determined to be nonhazardous

• Importers and manufacturers are required to develop MSDSs and labels. If you decide to develop your own MSDSs and labels, then this chapter also applies to you.

###### **You must:**

(1) Describe in writing your procedures for conducting hazard evaluations.

(2) Conduct a complete hazard evaluation for **ALL** chemicals you produce or import to determine if they are hazardous chemicals.

• Identify and consider available scientific evidence of health and physical hazards

• Evidence that meets the criteria in Table 3 must be used to establish a hazard

• Chemicals identified in a Table 4 source must be regarded as hazardous

• The scope of health hazards considered must include the categories in Tables 5 and 6

• If the chemical is a mixture, follow the additional criteria in Table 7

• If you find evidence that meets the criteria in Table 3, use it in your hazard evaluation.

**Table 3**  
**Criteria for Hazard Evidence**

<b>Hazard</b>	<b>Criteria</b>
• Health hazard	<ul style="list-style-type: none"> <li>• Where available, use human case reports of health effects <b>AND</b></li> <li>• One or more studies that <ul style="list-style-type: none"> <li>– Are based on human populations, if available, and animal populations<sup>1,2</sup></li> </ul> </li> </ul>

**Table 3**  
**Criteria for Hazard Evidence**

Hazard	Criteria
• Physical hazard	<p><b>AND</b></p> <ul style="list-style-type: none"> <li>– Report statistically significant conclusions of a hazardous effect or health hazard (as defined in this rule)</li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>– Have been conducted following established scientific principles</li> </ul> <ul style="list-style-type: none"> <li>• Valid evidence that shows a chemical is any one of the following<sup>3</sup>:</li> <ul style="list-style-type: none"> <li>– A combustible liquid</li> <li>– A compressed gas</li> <li>– Explosive</li> <li>– Flammable</li> <li>– An organic peroxide</li> <li>– An oxidizer</li> <li>– Pyrophoric</li> <li>– Unstable (reactive)</li> <li>– Water-reactive</li> </ul> </ul>

<sup>1</sup>If human data is not available, use results of tests done on animals and other available studies to predict health effects on employees (for example, effects resulting from short and long-term exposures to chemicals).

<sup>2</sup>In vitro studies alone do not generally form the basis of a finding of hazard.

<sup>3</sup>These terms are defined in WAC 296-307-56050.

Chemicals identified in the sources listed in Table 4 must be assumed to be hazardous (including carcinogens and potential carcinogens).

**Table 4**  
**Information Sources Identifying Hazardous Chemicals**

- Sources that address a broad range of hazard categories:
  - Chapter 296-62 WAC, General Occupational Health Standards, WISHA
  - 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA)
  - *Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment*, American Conference of Governmental Industrial Hygienists (ACGIH) (latest edition).
- Sources that identify carcinogens or potential carcinogens:
  - Chapter 296-62 WAC, General Occupational Health Standards, WISHA
  - 29 CFR Part 1910, Subpart Z, Toxic and Hazardous Substances, Occupational Safety and Health Administration (OSHA)
  - National Toxicology Program (NTP), Annual Report on Carcinogens (latest edition)
  - International Agency for Research on Cancer (IARC) Monographs (latest editions).

**Note:**

The *Registry of Toxic Effects of Chemical Substances* is published by the National Institute for Occupational Safety and Health (NIOSH) and identifies chemicals found to be potential carcinogens by the NTP and IARC.

Chemicals meeting Table 5 definitions, along with the criteria for established evidence in Table 3, must be regarded as hazardous.

**Table 5 is NOT intended to present all hazard categories or test methods.** Available scientific data involving other test methods and animal species must also be evaluated to determine a chemical's hazards.

**EXPEDITED**

EXPEDITED

**Table 5**  
**Standard Health Hazard Categories**

A chemical is considered to be	If
• A carcinogen	<ul style="list-style-type: none"> <li>• The International Agency for Research on Cancer (IARC) considers it to be a carcinogen or potential carcinogen</li> <li>OR</li> <li>• The National Toxicity Program (NTP) (latest edition) lists it as a carcinogen or potential carcinogen</li> <li>OR</li> <li>• It is regulated by WISHA or OSHA as a carcinogen</li> </ul>
• Corrosive	<ul style="list-style-type: none"> <li>• It causes visible destruction of, or irreversible alterations in, living tissue (not inanimate surfaces) by chemical action at the site of contact</li> </ul> <p>Example:</p> <ul style="list-style-type: none"> <li>– A chemical is corrosive if tested on the intact skin of albino rabbits by a method described by the U.S. Department of Transportation (in Appendix A to 49 CFR Part 173) and it destroys or changes (irreversibly) the structure of the tissue at the contact site after a four-hour exposure period</li> </ul>
• Toxic	<ul style="list-style-type: none"> <li>• It has a median lethal dose (LD50) greater than 50 milligrams per kilogram, but no more than 500 milligrams per kilogram of body weight, when administered orally to albino rats weighing between 200 - 300 grams each</li> <li>OR</li> <li>• It has a median lethal dose (LD50) greater than 200 milligrams per kilogram, but not more than 1,000 milligrams per kilogram, of body weight when administered by continuous contact for twenty-four hours (or less if death occurs within twenty-four hours) with the bare skin of albino rabbits weighing between 2 - 3 kilograms each</li> <li>OR</li> <li>• It has a median lethal concentration (LC50), in air: <ul style="list-style-type: none"> <li>– Greater than 200 parts per million, but not more than 2,000 parts per million (by volume of gas or vapor)</li> </ul> </li> <li>OR</li> <li>– Greater than 2 milligrams per liter, but not more than 20 milligrams per liter, of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats, weighing between 200 - 300 grams each</li> </ul>
• Highly toxic	<ul style="list-style-type: none"> <li>• It has a median lethal dose (LD50) of 50 milligrams, or less, per kilogram of body weight when administered orally to albino rats weighing between 200 - 300 grams each</li> <li>OR</li> <li>• It has a median lethal dose (LD50) of 200 milligrams, or less, per kilogram of body weight when administered by continuous contact for twenty-four hours (or less if death occurs within twenty-four hours) with the bare skin of albino rabbits weighing between 2 - 3 kilograms each</li> </ul>

**Table 5**  
**Standard Health Hazard Categories**

A chemical is considered to be	If
	<b>OR</b> <ul style="list-style-type: none"> <li>• It has a median lethal concentration of (LC50), in air, of:           <ul style="list-style-type: none"> <li>– 200 parts per million (by volume), or less, of gas or vapor</li> </ul> </li> </ul> <b>OR</b> <ul style="list-style-type: none"> <li>– 2 milligrams per liter, or less, of mist, fume, or dust, when administered by continuous inhalation for one hour (or less if death occurs within one hour) to albino rats weighing between 200 - 300 grams each</li> </ul>
• An irritant	<ul style="list-style-type: none"> <li>• It is NOT corrosive, but causes a reversible inflammatory effect on living tissue by chemical action at the contact site</li> </ul> <p>Examples:</p> <ul style="list-style-type: none"> <li>– The chemical is a skin irritant when tested on the intact skin of albino rabbits (by the methods of 16 CFR 1500.41) for four hours exposure (or by other appropriate techniques), and the exposure results in an empirical score of five or more</li> <li>– A chemical is an eye irritant if so determined under the procedure listed in 16 CFR 1500.42 or other appropriate techniques</li> </ul>
• A sensitizer	<ul style="list-style-type: none"> <li>• It causes a substantial proportion of exposed people or animals to develop an allergic reaction in normal tissue after repeated exposure</li> </ul>

Categories provided in Table 6 illustrate the broad range of target organ effects that must be considered when conducting hazard evaluations. Chemicals meeting Table 6 definitions, along with the criteria for established evidence in Table 3, must be regarded as hazardous.

Examples provided in Table 6 are NOT intended to be a complete list.

**Table 6**  
**Examples of Target Organ Effect Categories Category**

Category	Definition	Examples of Signs and Symptoms	Examples of Chemicals
Hepatotoxins	Cause liver damage	<ul style="list-style-type: none"> <li>• Jaundice</li> <li>• Liver enlargement</li> </ul>	<ul style="list-style-type: none"> <li>• Carbon tetrachloride</li> <li>• Nitrosamines</li> </ul>
Nephrotoxins	Cause kidney damage	<ul style="list-style-type: none"> <li>• Edema</li> <li>• Proteinuria</li> </ul>	<ul style="list-style-type: none"> <li>• Halogenated hydrocarbons</li> <li>• Cadmium</li> </ul>
Neurotoxins	Cause primary toxic effects on the nervous system	<ul style="list-style-type: none"> <li>• Narcosis</li> <li>• Behavioral changes</li> <li>• Decrease in motor functions</li> </ul>	<ul style="list-style-type: none"> <li>• Mercury</li> <li>• Carbon disulfide</li> <li>• Lead</li> </ul>
Chemicals that act on the • Blood <b>OR</b> • Hematopoietic (blood forming) system	<ul style="list-style-type: none"> <li>• Decrease hemoglobin function</li> </ul> <b>OR</b> <ul style="list-style-type: none"> <li>• Deprive the body tissues of oxygen</li> </ul>	<ul style="list-style-type: none"> <li>• Cyanosis</li> <li>• Loss of consciousness</li> </ul>	<ul style="list-style-type: none"> <li>• Carbon monoxide</li> <li>• Cyanides</li> <li>• Benzene</li> </ul>
Chemicals that damage the lungs	<ul style="list-style-type: none"> <li>• Irritate lungs</li> </ul> <b>OR</b> <ul style="list-style-type: none"> <li>• Damage pulmonary tissue</li> </ul>	<ul style="list-style-type: none"> <li>• Cough</li> <li>• Tightness in chest</li> <li>• Shortness of breath</li> </ul>	<ul style="list-style-type: none"> <li>• Silica</li> <li>• Asbestos</li> </ul>

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**Table 6**  
**Examples of Target Organ Effect Categories Category**

Category	Definition	Examples of Signs and Symptoms	Examples of Chemicals
Reproductive toxins	Affect reproductive capabilities, including: <ul style="list-style-type: none"><li>• Chromosomal damage (mutation)</li><li>• Effects on fetuses (teratogenesis)</li></ul>	<ul style="list-style-type: none"><li>• Birth defects</li><li>• Sterility</li></ul>	<ul style="list-style-type: none"><li>• Lead</li><li>• 1,2-Dibromo-3-chloropropane (DBCP)</li><li>• Nitrous oxide</li></ul>
Cutaneous (skin) hazards	Affect the dermal layer of the body	<ul style="list-style-type: none"><li>• Defatting of the skin</li><li>• Rashes</li><li>• Irritation</li></ul>	<ul style="list-style-type: none"><li>• Ketones</li><li>• Chlorinated compounds</li></ul>
Eye hazards	Affect the eye or ability to see	<ul style="list-style-type: none"><li>• Conjunctivitis</li><li>• Corneal damage</li></ul>	<ul style="list-style-type: none"><li>• Organic solvents</li><li>• Acids</li></ul>

**Table 7**  
**Criteria for Evaluating Chemical Mixtures**

If a mixture	Then
• Has been thoroughly tested as a whole for a physical or health hazard	<ul style="list-style-type: none"><li>• You must use those results</li></ul>
• Has NOT been tested as a whole for a health hazard	<ul style="list-style-type: none"><li>• You must:<ul style="list-style-type: none"><li>– Evaluate EACH ingredient in the mixture to determine the hazards</li><li>– Consider the mixture to have the same hazard as each ingredient determined to be hazardous</li></ul></li></ul>
• Has NOT been tested as a whole for physical hazards	<ul style="list-style-type: none"><li>• You must:</li><li>• Use any scientifically valid data available to evaluate the potential physical hazards of the mixture</li></ul>

#### NEW SECTION

#### **WAC 296-307-56015 Provide access to hazard evaluation procedures.**

##### **You must:**

- Provide access to your written hazard evaluation procedures when requested by any of the following:
  - Employees
  - Designated representatives of employees
  - Representatives of the department of labor and industries
  - Representatives of the National Institute for Occupational Safety and Health (NIOSH).

#### NEW SECTION

#### **WAC 296-307-56020 Material safety data sheets.**

##### **Your responsibility:**

To provide complete and accurate material safety data sheets (MSDSs).

##### **You must:**

Develop or obtain MSDSs

**WAC 296-307-56025**

Provide MSDSs

**WAC 296-307-56030**

Follow-up if an MSDS is not provided  
WAC 296-307-56035.

#### NEW SECTION

#### **WAC 296-307-56025 Develop or obtain material safety data sheets (MSDSs).**

##### **You must:**

- Develop or obtain a complete and accurate material safety data sheet (MSDS) for each hazardous chemical or mixture according to ALL of the following:
  - ALL information in Table 8 must be completed. If there is no relevant information for a required item, this must be noted. Blank spaces are not permitted.

**Note:** • No specific format is required for MSDSs; however, an example format (OSHA form 174) can be found online at <http://www.osha.gov>  
 • One MSDS can be developed for a group of complex mixtures (for example, jet fuels or crude oil) IF the health and physical hazards of the mixtures are similar (the amounts of chemicals in the mixture may vary).

– Content of MSDSs must accurately represent the available scientific evidence.

**Note:** You may report results of scientifically valid studies that tend to refute findings of hazards.

– MSDSs must be in English.

**Note:** You may develop copies of MSDSs in other languages.

**You must:**

- Revise an MSDS when you become aware of new and significant information regarding the hazards of a chemical, or how to protect against the hazards

– Within three months after you first become aware of the information

**OR**

– Before the chemical is reintroduced into the workplace if the chemical is no longer being used, produced or imported.

**Table 8**  
**Information Required on MSDSs**

<ul style="list-style-type: none"> <li>• The chemical's identity as it appears on the label</li> <li>• The date the MSDS was prepared or updated</li> <li>• A contact for additional information about the hazardous chemical and appropriate emergency procedures</li> </ul> <p>Include all of the following:</p> <ul style="list-style-type: none"> <li>– Name</li> <li>– Address</li> <li>– Telephone number of the responsible party preparing or distributing the MSDS</li> </ul>
<ul style="list-style-type: none"> <li>• The chemical's hazardous ingredients<sup>1</sup> as determined by your hazard evaluation           <ul style="list-style-type: none"> <li>– For a <b>single substance chemical</b>, include the chemical and common name(s) of the substance</li> <li>– For <b>mixtures</b> tested as a whole               <ul style="list-style-type: none"> <li>■ Include the common name(s) of the mixture AND</li> <li>■ List the chemical and common name(s) of ingredients that contribute to the known hazards</li> </ul> </li> <li>– For <b>mixtures NOT</b> tested as a whole, list the chemical and common name(s) of hazardous ingredients               <ul style="list-style-type: none"> <li>■ That make up 1% or more of the mixture, by weight or volume, including carcinogens (if 0.1% concentration or more, by weight or volume)</li> <li>– If ingredients are less than the above concentrations but may present a health risk to employees (for example, allergic reaction or exposure could exceed the permissible exposure limits, or PEL) they must be listed here</li> </ul> </li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Exposure limits for airborne concentrations. Include <b>ALL</b> of the following, when they exist:       <ul style="list-style-type: none"> <li>– WISHA or OSHA PELs<sup>2</sup> <ul style="list-style-type: none"> <li>■ The 8-hour time weighted average (TWA)</li> <li>■ The short-term exposure limit (STEL), if available</li> <li>■ Ceiling values, if available</li> </ul> </li> <li>– Threshold limit values (TLVs) including 8-hour TWAs, STELs, and ceiling values</li> <li>– Other exposure limits used or recommended by the employer preparing the MSDS</li> </ul> </li> </ul>
<ul style="list-style-type: none"> <li>• Physical and chemical characteristics       <ul style="list-style-type: none"> <li>– For example, boiling point, vapor pressure, and odor</li> </ul> </li> <li>• Fire, explosion data, and related information       <ul style="list-style-type: none"> <li>– For example, flashpoint, flammable and explosion limits, extinguishing media, and unusual fire or explosion hazards</li> </ul> </li> <li>• Physical hazards of the chemical including reactivity information       <ul style="list-style-type: none"> <li>– For example, incompatibilities, decomposition products, by-products, and conditions to avoid</li> </ul> </li> <li>• Health hazard information including <b>ALL</b> of the following:       <ul style="list-style-type: none"> <li>– Primary routes of exposure</li> </ul> </li> <li>• For example, inhalation, ingestion, and skin absorption or other contact<sup>3</sup> <ul style="list-style-type: none"> <li>– Health effects (or hazards) associated with:           <ul style="list-style-type: none"> <li>■ Short-term exposure<sup>4</sup> AND</li> <li>■ Long-term exposure<sup>4</sup></li> </ul> </li> </ul> </li> </ul>

**Table 8**  
**Information Required on MSDSs**

– Whether the chemical is listed or described as a carcinogen or potential carcinogen in the latest editions of each of the following:

- The National Toxicology Program (NTP) Annual Report on Carcinogens

OR

- The International Agency for Research on Cancer (IARC) Monographs as a potential carcinogen

OR

- WISHA or OSHA rules

– Signs and symptoms of exposure<sup>5</sup>

– Medical conditions generally recognized as being aggravated by exposure

• Emergency and first-aid procedures

• Generally applicable precautions for safe handling and use known to the employer preparing the MSDS

– For example, appropriate procedures for clean-up of spills and leaks, waste disposal method, precautions during handling and storing

• Generally applicable and appropriate control measures known to the employer preparing the MSDS, including ALL of the following:

– Engineering controls (for example, general or local exhaust ventilation)

– Work practices

– Personal protective equipment (PPE)

– Personal hygiene practices

– Protective measures during repair and maintenance of contaminated equipment

<sup>1</sup>The identities of some chemicals may be protected as trade secret information (see chapter 296-62 WAC, Part B-1, Trade secrets).

<sup>2</sup>WISHA PEL categories are defined, and values are provided, in chapter 296-62 WAC, Part H.

<sup>3</sup>A "skin notation" listed with either an ACGIH TLV or WISHA/OSHA PEL indicates that skin absorption is a primary route of exposure.

<sup>4</sup>Examples of:

- Short-term health effects (or hazards) include eye irritation, skin damage caused by contact with corrosives, narcosis, sensitization, and lethal dose.
- Long-term health effects (or hazards) include cancer, liver degeneration, and silicosis.

<sup>5</sup>Signs and symptoms of exposure to hazardous substances include those that:

- Can be measured such as decreased pulmonary function

AND

- Are subjective such as feeling short of breath.

#### NEW SECTION

#### **WAC 296-307-56030 Provide MSDSs for products shipped, transferred or sold over-the-counter.**

##### **You must:**

• Provide the correct MSDS to manufacturers, distributors and employers:

– With the initial shipment or transfer of the product

AND

– With the first shipment or transfer after an MSDS is updated

AND

– Whenever one is requested.

##### **Note:**

- MSDSs may be provided separately from containers as long as they are provided before or at the same time as the containers. For example, you may fax, or e-mail the MSDS
- You are NOT required to provide MSDSs to retailers who inform you they
  - Do not sell the product to commercial accounts
- AND
- Do not open the sealed product containers for use in their workplace.

##### **You must:**

- Follow the requirements in Table 9 for chemicals sold over-the-counter.

**Table 9**  
**Requirements for Chemicals Sold Over-the-Counter (NOT Shipped)**

If you are a	Then
• Retail distributor WITH commercial accounts	<ul style="list-style-type: none"> <li>• Provide an MSDS to employers with commercial accounts when requested</li> </ul> <p>AND</p> <ul style="list-style-type: none"> <li>• Post a sign, or otherwise inform employers, that MSDSs are available</li> </ul>

**Table 9**  
**Requirements for Chemicals Sold Over-the-Counter (NOT Shipped)**

If you are a	Then
• Retail distributor WITHOUT commercial accounts	• Provide the employer, when requested, with ALL of the following: – Name – Address – Telephone number of the chemical manufacturer, importer, or distributor who can provide an MSDS
• Wholesale distributor selling products over-the-counter to employers	• Provide an MSDS to employers with commercial accounts when requested <b>AND</b> • Post a sign, or otherwise inform employers, that MSDSs are available

**NEW SECTION****WAC 296-307-56035 Follow-up if an MSDS is not provided.****You must:**

- Obtain an MSDS from the chemical manufacturer, distributor or importer as soon as possible, if an MSDS is not provided for a shipment labeled as a hazardous chemical.

**NEW SECTION****WAC 296-307-56040 Labeling.****Your responsibility:**

To provide employers with containers of hazardous chemicals that are properly labeled.

**NEW SECTION****WAC 296-307-56045 Label containers of hazardous chemicals.**

**Exemption:** Containers are exempt from this section if ALL hazardous contents are listed in Table 11.

**You must:**

• Make sure every container of hazardous chemicals leaving the workplace is properly labeled. This includes ALL of the following:

- The identity of the hazardous chemical (the chemical or common name) that matches the identity used on the MSDS

- An appropriate hazard warning
- The name and address of the chemical manufacturer, importer, or other responsible party
- Make sure labeling does not conflict with the requirements of:

- The Hazardous Materials Transportation Act (49 U.S.C. 1801 et seq.)

**AND**

- Regulations issued under the act by the U.S. Department of Transportation (Title 49 of the Code of Federal Regulations, Parts 171 through 180). See <http://www.dot.gov>

– Revise labels within three months of becoming aware of new and significant information about chemical hazards

– Provide revised labels on containers beginning with the first shipment after a revision, to manufacturers, distributors or employers

– Revise the label when a chemical is not currently used, produced or imported, before:

- You resume shipping (or transferring) the chemical

**OR**

- The chemical is reintroduced in the workplace

- Label information

- Clearly written in English

**AND**

- Prominently displayed on the container.

**Reference:** Additional labeling requirements for specific hazardous chemicals (for example, asbestos, cadmium, and formaldehyde) are found in chapter 296-62 WAC, General occupational health standards (see parts F, G, I and I-1 of that chapter).

**Note:** When the conditions specified in Table 10 are met for the solid material products listed, you are not required to provide labels for every shipment.

<b>Table 10</b> <b>Labeling for Solid Materials</b>	
<b>You need only send labels with the first shipment, IF the product is</b>	<b>And</b>
<b>Whole grain</b>	• It is shipped to the same customer <b>AND</b>
<b>Solid untreated wood</b>	• No hazardous chemicals are part of or known to be present with the product which could expose employees during handling
<b>Solid metal</b> For example: Steel beams, metal castings	– For example, cutting fluids on solid metal, and pesticides with grain
<b>Plastic items</b>	

**Exemptions:** The chemicals (and items) listed in Table 11 are EXEMPT from THIS SECTION under the conditions specified. Requirements in other sections still apply.

<b>Table 11</b> <b>Conditional Label Exemptions</b>	
<b>This section does not apply to</b>	<b>When the product is</b>
<ul style="list-style-type: none"> <li>• Pesticides           <ul style="list-style-type: none"> <li>– Meeting the definition of "pesticides" in the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (see Title 7, U.S.C. Chapter 6, Subchapter II, section 136<sup>1</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subject to           <ul style="list-style-type: none"> <li>– Labeling requirements of FIFRA<sup>1</sup></li> </ul> </li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>– Labeling regulations issued under FIFRA by the United States Environmental Protection Agency (EPA) (see Title 40 of the Code of Federal Regulations<sup>2</sup>)</li> </ul>
<ul style="list-style-type: none"> <li>• A chemical substance or mixture           <ul style="list-style-type: none"> <li>– Meeting the definition of "chemical substance" or "mixture" in the Toxic Substance Control Act (TSCA) (see Title 15 U.S.C. Chapter 53, Subchapter II, Section 2602<sup>1</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subject to           <ul style="list-style-type: none"> <li>– Labeling requirements of TSCA<sup>1</sup></li> </ul> </li> </ul> <p><b>AND</b></p> <ul style="list-style-type: none"> <li>– Labeling requirements issued under TSCA by the EPA (see Title 40 of the Code of Federal Regulations<sup>2</sup>)</li> </ul>
<ul style="list-style-type: none"> <li>• Each of the following           <ul style="list-style-type: none"> <li>– Food</li> <li>– Food additives</li> <li>– Color additives</li> <li>– Drugs</li> <li>– Cosmetics</li> <li>– Medical devices or products</li> <li>– Veterinary devices or products</li> <li>– Materials intended for use in these products (for example: Flavors, and fragrances)</li> </ul> </li> <li>• As defined in           <ul style="list-style-type: none"> <li>– The Federal Food, Drug, and Cosmetic Act (see Title 21 U.S.C. Chapter 9, Subchapter II, Section 321<sup>1</sup>)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subject to:           <ul style="list-style-type: none"> <li>– Labeling requirements in Federal Food, Drug, and Cosmetic Act, Virus-Serum Toxin Act of 1913, and issued regulations enforced by the United States Food and Drug Administration (see Title 21 Parts 101-180 in the Code of Federal Regulations<sup>3</sup>)</li> </ul> </li> </ul> <p><b>OR</b></p> <ul style="list-style-type: none"> <li>– Department of Agriculture (see Title 9, in the Code of Federal Regulations<sup>3</sup>)</li> </ul>

**Table 11**  
**Conditional Label Exemptions**

<b>This section does not apply to</b>	<b>When the product is</b>
<b>OR</b> <ul style="list-style-type: none"> <li>– The Virus-Serum Toxin Act of 1913 (see Title 21 U.S.C. Chapter 5, Section 151 et seq.<sup>1</sup>)</li> </ul>	
<b>OR</b> <ul style="list-style-type: none"> <li>– Regulations issued under these acts (see Title 21 Part 101 in the Code of Federal Regulations, and Title 9, in the Code of Federal Regulations<sup>3</sup>)</li> </ul>	
<ul style="list-style-type: none"> <li>• Each of the following:           <ul style="list-style-type: none"> <li>– Distilled spirits (beverage alcohols)</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Subject to:           <ul style="list-style-type: none"> <li>– Labeling requirements of Federal Alcohol Administration Act<sup>1</sup></li> </ul> </li> </ul>
<b>AND</b> <ul style="list-style-type: none"> <li>– Wine</li> </ul>	<b>AND</b> <ul style="list-style-type: none"> <li>– Labeling regulations issued under Federal Alcohol Administration Act by the Bureau of Alcohol, Tobacco, and Firearms (see Title 27 in the Code of Federal Regulations<sup>3</sup>)</li> </ul>
<b>AND</b> <ul style="list-style-type: none"> <li>– Malt beverage</li> </ul> <ul style="list-style-type: none"> <li>• As defined in           <ul style="list-style-type: none"> <li>– The Federal Alcohol Administration Act (see Title 27 U.S.C. Section 201<sup>1</sup>)</li> </ul> </li> </ul>	
<b>AND</b> <ul style="list-style-type: none"> <li>– Regulations issued under this act (see Title 27 in the Code of Federal Regulations<sup>3</sup>)</li> </ul>	
<ul style="list-style-type: none"> <li>• Consumer products</li> </ul>	<ul style="list-style-type: none"> <li>• Subject to:           <ul style="list-style-type: none"> <li>– A consumer product safety or labeling requirement of the Consumer Product Safety Act or Federal Hazardous Substances Act<sup>1</sup></li> </ul> </li> </ul>
<b>AND</b> <ul style="list-style-type: none"> <li>• Hazardous substances           <ul style="list-style-type: none"> <li>– As defined in the Consumer Product Safety Act (see 15 U.S.C. 2051 et seq.<sup>1</sup>)</li> </ul> </li> </ul>	<b>OR</b> <ul style="list-style-type: none"> <li>– Regulations issued under these acts by the Consumer Product Safety Commission (see Title 16 in the Code of Federal Regulations<sup>3</sup>)</li> </ul>
<b>AND</b> <ul style="list-style-type: none"> <li>– The Federal Hazardous Substances Act (see 15 U.S.C. 1261 et seq.<sup>1</sup>)</li> </ul>	
<ul style="list-style-type: none"> <li>• Agricultural seed</li> </ul>	<ul style="list-style-type: none"> <li>• Labeled as required by           <ul style="list-style-type: none"> <li>– The Federal Seed Act (see Title 7 U.S.C. Chapter 37 Section 1551 et seq.<sup>1</sup>)</li> </ul> </li> </ul>
<b>AND</b> <ul style="list-style-type: none"> <li>• Vegetable seed treated with pesticides</li> </ul>	<b>AND</b> <ul style="list-style-type: none"> <li>– Labeling requirements issued under Federal Seed Act by the United States Department of Agriculture<sup>1</sup></li> </ul>

<sup>1</sup>This federal act is included in the United States Code. See <http://www.access.gpo.gov/uscode/uscmain.html>.

<sup>2</sup>See <http://www.epa.gov>.

<sup>3</sup>See <http://www.access.gpo.gov/nara/cfr/index.html>.

EXPEDITED

NEW SECTION

**WAC 296-307-56050 Definitions.** The following definitions apply to this chapter:

**Article (manufactured item)**

A manufactured item that

- Is not a fluid or particle

**AND**

- Is formed to a specific shape or design during manufacture for a particular end use function

**AND**

- Releases only trace amounts of a hazardous chemical during normal use and does not pose a physical or health risk to employees.

**Chemical**

- An element or mixture of elements

**OR**

- A compound or mixture of compounds

**OR**

- A mixture of elements and compounds

Included are manufactured items (such as bricks, welding rods and sheet metal) that are not exempt as an article.

**Chemical name**

- The scientific designation of a chemical developed by the

– International union of pure and applied chemistry (IUPAC)

**OR**

– Chemical abstracts service (CAS) rules of nomenclature

**OR**

- A name that clearly identifies the chemical for the purpose of conducting a hazard evaluation.

**Combustible liquid**

Liquids with a flashpoint of at least 100°F (37.8°C) and below 200°F (93.3°C). A mixture with at least 99% of its components having flashpoints of 200°F (93.3°C), or higher, is not considered a combustible liquid.

**Commercial account**

An arrangement where a retailer is selling hazardous chemicals to an employer

- Generally in large quantities over time

**OR**

- At costs below regular retail price.

**Common name**

Any designation or identification used to identify a chemical other than the chemical name, such as a

- Code name or number

**OR**

- Trade or brand name

**OR**

- Generic name.

**Compressed gas**

• A contained gas or mixture of gases with an absolute pressure greater than:

– 40 psi at 70°F (21.1°C)

**OR**

– 104 psi at 130°F (54.4°C) regardless of the pressure at 70°F (21.1°C)

**OR**

- A liquid with a vapor pressure greater than 40 psi at 100°F (37.8°C), as determined by ASTM D323-72.

**Container**

A vessel, other than a pipe or piping system, that holds a hazardous chemical. Examples include:

- Bags
- Barrels
- Bottles
- Boxes
- Cans
- Cylinders
- Drums
- Reaction vessels
- Storage tanks
- Rail cars.

**Designated representative**

- An individual or organization with written authorization from an employee

**OR**

- A recognized or certified collective bargaining agent (not necessarily authorized by an employee)

**OR**

- A legal representative of a deceased or legally incapacitated employee.

**Distributor**

A business that supplies hazardous chemicals to other employers. Included are employers who conduct retail and wholesale transactions.

**Explosive**

A chemical that causes a sudden, almost instant release of pressure, gas, and heat when exposed to a sudden shock, pressure, or high temperature.

**Flammable**

A chemical in one of the following categories:

- Aerosols that, when tested using a method described in 16 CFR 1500.45, yield either a:

– Flame projection of more than eighteen inches at full valve opening

**OR**

– A flashback (a flame extending back to the valve) at any degree of valve opening

• Gases that, at the temperature and pressure of the surrounding area, form a:

– Flammable mixture with air at a concentration of thirteen percent, by volume, or less

**OR**

– Range of flammable mixtures with air wider than twelve percent, by volume, regardless of the lower limit

• Liquids with a flashpoint below 100°F (37.8°C). A mixture with at least ninety-nine percent of its components having flashpoints of 100°F (37.8°C), or higher, is not considered a flammable liquid

• Solids, other than blasting agents or explosives, as defined in WAC 296-52-417 or 29 CFR 1910.109(a), that:

- Is likely to cause fire through friction, moisture, absorption, spontaneous chemical change or retained heat from manufacturing or processing

**OR**

- That can be readily ignited (and when ignited burns so vigorously and persistently that it creates a serious hazard)

**OR**

- When tested by the method described in 16 CFR 1500.44, ignite and burn with a self-sustained flame at a rate greater than 1/10th of an inch per second along its major axis.

### **Flashpoint**

The minimum temperature at which a liquid gives off an ignitable concentration of vapor, when tested by any of the following measurement methods:

- Tagliabue closed tester. Use this for liquids with a viscosity less than 45 Saybolt Universal Seconds (SUS) at 100°F (37.8°C), that do not contain suspended solids and do not tend to form a surface film under test. See American National Standard Method of Test for Flashpoint by Tag Closed Tester, Z11.24-1979 (ASTM D 56-79)

- Pensky-Martens closed tester. Use this for liquids with a viscosity equal to, or greater than, 45 SUS at 100°F (37.8°C) or for liquids that contain suspended solids or have a tendency to form a surface film under test. See American National Standard Method of Test for Flashpoint by Pensky-Martens Closed Tester, Z11.7-1979 (ASTM D 93-79)

- Setaflash closed tester. See American National Standard Method of Test for Flashpoint by Setaflash Closed Tester (ASTM D 3278-78)

Organic peroxides, which undergo auto accelerating thermal decomposition, are excluded from any of the flash-point measurement methods specified above.

### **Hazardous chemical**

A chemical, which is a physical or health hazard.

### **Hazard warning**

Words, pictures or symbols (alone or in combination) that appear on labels (or other forms of warning such as placards or tags) that communicate specific physical and health hazards (including target organ effects) associated with chemicals in a container.

### **Health hazard**

A chemical that may cause health effects in short or long-term exposed employees based on statistically significant evidence from a single study conducted by using established scientific principles.

Health hazards include, but are not limited to, any of the following:

- Carcinogens
- Toxic or highly toxic substances
- Reproductive toxins
- Irritants
- Corrosives
- Sensitizers
- Hepatotoxins (liver toxins)
- Nephrotoxins (kidney toxins)
- Neurotoxins (nervous system toxins)
- Substances that act on the hematopoietic system (blood or blood forming system)

- Substances that can damage the lungs, skin, eyes, or mucous membranes.

### **Identity**

A chemical or common name listed on the material safety data sheet (MSDS) and label.

### **Importer**

The first business, within the Customs Territory of the United States, that receives hazardous chemicals produced in other countries and supplies them to manufacturers, distributors or employers within the United States.

### **Label**

Written, printed, or graphic material displayed on, or attached to, a container of hazardous chemicals.

### **Manufacturer**

An employer with a workplace where one or more chemicals (including items not exempt as "articles," see Table 1 in this chapter) are produced for use or distribution.

### **Material safety data sheet (MSDS)**

Written, printed or electronic information (on paper, microfiche, or on-screen) that informs manufacturers, distributors or employers about the chemical, its hazards and protective measures as required by this rule.

### **Mixture**

A combination of two or more chemicals that retain their chemical identity after being combined.

### **Organic peroxide**

An organic compound containing the bivalent-O-O- structure. It may be considered a structural derivative of hydrogen peroxide if one or both of the hydrogen atoms has been replaced by an organic radical.

### **Oxidizer**

A chemical, other than a blasting agent or explosive as defined in WAC 296-52-417 or 29 CFR 1910.109(a), that starts or promotes combustion in other materials, causing fire either of itself or through the release of oxygen or other gases.

### **Permissible exposure limits**

See chapter 296-62 WAC Part H, for definition of this term.

### **Physical hazards**

A chemical that has scientifically valid evidence to show it is one of the following:

- A combustible liquid
- A compressed gas
- Explosive
- Flammable
- An organic peroxide
- An oxidizer
- Pyrophoric
- Unstable (reactive)
- Water-reactive.

### **Produce**

To do one or more of the following:

- Manufacture
- Process
- Formulate
- Blend
- Extract
- Generate

**EXPEDITED**

- Emit
- Repackage.

**Pyrophoric**

Chemicals that ignite spontaneously in the air at a temperature of 130°F (54.4°C) or below.

**Responsible party**

Someone who can provide more information about the hazardous chemical and appropriate emergency procedures.

**Retailer**

See "distributor."

**Threshold limit values (TLVs)**

Airborne concentrations of substances established by the American Conference of Governmental Industrial Hygienists (ACGIH), and represent conditions under which it is believed that nearly all workers may be repeatedly exposed day after day without adverse health effects.

TLVs are specified in the most recent edition of the *Threshold Limit Values for Chemical Substances and Physical Agents and Biological Exposure Indices* and include the following categories:

- Threshold limit value-time-weighted average (TLV-TWA)
- Threshold limit value-short-term exposure limit (TLV-STEL)
- Threshold limit value-ceiling (TLV-C).

**Unstable (reactive)**

A chemical in its pure state, or as produced or transported, that will vigorously polymerize, decompose, condense, or become self-reactive under conditions of shocks, pressure or temperature.

**Use**

To do one or more of the following:

- Package
- Handle
- React
- Emit
- Extract
- Generate as a by-product
- Transfer.

**Water-reactive**

A chemical that reacts with water to release a gas that is either flammable or presents a health hazard.

**Wholesaler**

See "distributor."

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 296-307-45001

What general requirements apply to hazardous materials and flammable and combustible liquids?

WAC 296-307-45003

What requirements apply to dip tanks containing flammable or combustible liquids?

WAC 296-307-45007

What requirements must ventilation systems meet?

WAC 296-307-45009

What general requirements apply to the construction of dip tanks?

WAC 296-307-45011

How must overflow pipes for dip tanks be constructed?

WAC 296-307-45013

How must the bottom drains of dip tanks be constructed?

WAC 296-307-45017

What measures must an employer take to prevent hazards from electrical and other ignition sources?

WAC 296-307-45019

How must dip tanks be operated and maintained?

WAC 296-307-45021

What requirements must fire extinguishing systems meet?

WAC 296-307-45023

What requirements apply to hardening and tempering tanks?

WAC 296-307-45027

What requirements apply to electrostatic apparatus?

WAC 296-307-45029

What requirements apply to roll coating applications?

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 296-62-070

Chemical agents (airborne or contact).

WAC 296-62-07001

Definitions (airborne chemical agents).

WAC 296-62-07003

Definitions (contact chemical agents).

WAC 296-62-07005

Control of chemical agents.

WAC 296-62-080

Biological agents.

WAC 296-62-11021

Open surface tanks.

WAC 296-62-130

Emergency washing facilities.

**REPEALER**

The following sections of the Washington Administrative Code are repealed:

WAC 296-62-054

Manufacturers, importers and distributors—Hazard communication.

WAC 296-62-05402

Determine whether the chemicals you produce in

WAC 296-62-05404	your workplace or import are hazardous.
WAC 296-62-05406	Use these criteria in making hazard determinations.
WAC 296-62-05408	Determine whether the chemicals you produce or import are health hazards.
WAC 296-62-05410	Obtain or develop a material safety data sheet for each hazardous chemical you produce or import.
WAC 296-62-05412	Label clearly each container of hazardous chemicals that leaves your workplace.
	Provide material safety data sheets.

**WSR 03-04-105**  
**EXPEDITED RULES**  
**DEPARTMENT OF HEALTH**

[Filed February 5, 2003, 9:01 a.m.]

Title of Rule: Chapter 246-01 WAC, Description and organization.

Purpose: This chapter of rules describes the department's organization and function of the department, and provides information on how to contact the department.

Other Identifying Information: These rules were identified as outdated as a result of a review under Executive Order 97-02, Regulatory Improvement.

Statutory Authority for Adoption: Chapter 43.70 RCW, RCW 34.05.220, 42.17.250.

Statute Being Implemented: RCW 34.05.220, 42.17.-250.

Summary: The proposal updates the rules to reflect the current organization of the department, eliminates unnecessary information to improve clarity and updates the contact information for the department.

Reasons Supporting Proposal: These rules need to be up to date to help assure that interested parties may obtain accurate information regarding the department's organization and function.

Name of Agency Personnel Responsible for Drafting: Laurie Jinkins, Mailstop 47830, Olympia, Washington 98504-7830, (360) 236-3721; Implementation and Enforcement: Eric Slagle, Mailstop 47890, Olympia, Washington 98504-7890, (360) 236-3003.

Name of Proponent: Department of Health, governmental.

Rule is not necessitated by federal law, federal or state court decision.

Explanation of Rule, its Purpose, and Anticipated Effects: This chapter describes the department and the general course and method of its operations. The purpose of the rule is to provide information for individuals interested about the structure and function of the department and to provide

the information needed for the public to contact the department. The anticipated effect of the rule is to improve the reader's understanding about the department, and to facilitate access to the department by providing contact information.

**Proposal Changes the Following Existing Rules:** The proposal updates WAC 246-01-001 Purpose and authority, by eliminating an outdated mission statement; streamlines WAC 246-01-080 Organization, by replacing lengthy, inaccurate, and outdated descriptions of agency divisions with a concise description of the agency's organization and mission; and updates WAC 246-01-090 Consumer assistance, to accurately reflect the contact information for the department. The proposal eliminates WAC 246-01-040 Department and professional boards—Relationship, because the information is outdated and best reflected in a new, concise statement under WAC 246-01-080. The proposal eliminates WAC 246-01-070 Department and Health Professions Resource Committee—Relationship, because the language is redundant to the language in RCW 28B.125.010, and because the committee is no longer active. The proposal also eliminates WAC 246-01-100 Current address, because that information is redundant with the amendments to WAC 246-01-090 Consumer assistance.

#### NOTICE

THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THE USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO Michelle Davis, Regulatory Affairs Manager, Department of Health, P.O. Box 47879, Olympia, WA 98504-7879, AND RECEIVED BY April 7, 2003.

M. C. Selecky  
 Secretary

#### AMENDATORY SECTION (Amending Order 346, filed 3/24/93, effective 4/24/93)

**WAC 246-01-001 Purpose and authority.** (((1))) The purpose of this chapter is to describe the department of health and the general course and method of its operations. This chapter is adopted ((pursuant to)) under RCW 34.05.220 and 42.17.250, and chapter 43.70 RCW.

((2) The department of health is charged with preserving public health, monitoring health care costs, maintaining minimal standards for quality in health care delivery, and generally overseeing and planning the state's activities as they relate to the health of its citizenry.))

#### AMENDATORY SECTION (Amending WSR 95-10-043, filed 5/1/95, effective 6/1/95)

**WAC 246-01-080 Organization.** (((1))) The department is headed by the secretary. The office of the secretary pro-

**EXPEDITED**

~~vides overall agency management, and is comprised of the secretary, deputy secretary, state health officer, policy and planning, legislative and constituent relations, minority affairs, and the communications office.~~

~~(2) Six assistant secretaries direct specific programs within the department.~~

~~(a) The assistant secretary for epidemiology and health statistics:~~

~~(i) Collects and analyzes data that provides information about the health of the population, hospital costs, hospital diagnosis and procedures;~~

~~(ii) Collects information on all births, deaths, marriages, and divorces within the state and makes official documentation of these events available to the public;~~

~~(iii) Conducts surveillance of communicable and non-communicable diseases and other health related events. Investigates disease outbreaks, epidemics, and clusters; provides technical assistance and advice in developing and implementing prevention/control programs; provides expert consultation to local health departments on epidemiologically impacted issues and, when necessary, directs support for responding to emergent public health situations;~~

~~(iv) Develops a health services information system that supports the implementation of health reform as envisioned under the Health Services Act of 1993, and monitors the effectiveness of the reformed health care environment;~~

~~(v) Monitors the consistency, quality, continuity, and comprehensiveness of the department's health assessment activities, including disease surveillance and program evaluation;~~

~~(iv) Provides a scientific basis for health policy and program management decisions within the department and, when requested, to local health departments.~~

~~(b) The assistant secretary for health systems quality assurance:~~

~~(i) Administers laws and enforces rules, regulations, and standards for the following professions:~~

~~Acupuncturists~~

~~Airway management technicians~~

~~Animal technicians~~

~~Chiropractic x-ray technicians~~

~~Controlled substance researchers~~

~~Counselors/registered & certified~~

~~Dental hygienists~~

~~Dentists~~

~~Denturists~~

~~Dieticians/nutritionists~~

~~Dispensing opticians~~

~~Doctors of chiropractic~~

~~Drug manufacturers & wholesalers~~

~~Emergency medical technicians~~

~~First responders~~

~~Health care assistants~~

~~Hearing aid fitters~~

~~Intravenous technicians~~

~~Legend drug sample distributors~~

~~Massage practitioners~~

~~Midwives~~

~~Naturopathic physicians~~

~~Nursing assistants~~

~~Nursing home administrators~~

~~Nursing pools~~

~~Occupational therapists~~

~~Occupational therapists' assistants~~

~~Ocularists~~

~~Optometrists~~

~~Osteopathic physicians and surgeons~~

~~Osteopathic physicians' assistants~~

~~Osteopathic physicians' acupuncture assistants~~

~~Pharmacists~~

~~Paramedics~~

~~Pharmacy assistants~~

~~Physical therapists~~

~~Physicians and surgeons~~

~~Physician assistants~~

~~Pediatric physicians and surgeons~~

~~Practical nurses~~

~~Psychologists~~

~~Radiological technologists~~

~~Registered nurses~~

~~Respiratory care practitioners~~

~~Sex offender treatment providers~~

~~Veterinarians~~

~~Veterinary med clerks~~

~~X-ray technicians~~

~~(ii) Sets standards, inspects, licenses, or certifies, provides consultation, and reviews and approves construction of new buildings, alterations, additions, and conversions of health and residential care facilities for:~~

~~Acute care hospitals~~

~~Adult residential rehabilitation centers~~

~~Alcoholism treatment facilities~~

~~Alcoholism hospitals~~

~~Ambulatory surgery centers~~

~~Boarding homes~~

~~Childbirth centers~~

~~Child day care centers~~

~~Comprehensive outpatient rehabilitation~~

~~Department of corrections facilities~~

~~Juvenile rehabilitation facilities~~

~~End stage renal disease centers~~

~~Eye banks~~

~~Ferry systems~~

~~Group care facilities for children~~

~~Home health care agencies~~

~~Home care agencies~~

~~Hospice agencies~~

~~Hospice care facilities~~

~~Occupational therapist independent practice~~

~~Outpatient physical therapy/speech pathology~~

~~Physical therapist independent practice~~

~~Private adult treatment homes~~

~~Psychiatric hospitals~~

~~Residential treatment facilities for psychiatrically impaired children & youth~~

~~Rural health care facilities~~

~~Rural health care clinics~~

~~Soldiers' home~~  
~~State school for the blind~~  
~~State school for the deaf~~  
~~State hospitals for the mentally ill~~  
~~Temporary worker housing~~  
~~Transient accommodations~~  
~~Veterans' home~~

(iii) Regulates the development of various new health care facilities and services based on community need, financial feasibility, cost containment, and quality of care;

(iv) Establishes and promotes a system of emergency medical and trauma services, which includes: Developing, evaluating, and monitoring training programs; licensing and inspection; and technical assistance for a comprehensive statewide integrated emergency medical system; and

(v) Regulates clinical laboratory testing sites and practices.

(e) The assistant secretary for community and family health is responsible for assessing the health status of Washington state citizens regarding disease, injury, and nutrition; developing policy based on those assessments that will prevent disease, premature death and disability, and will promote health lifestyles and environments; and assuring access to quality services consistent with approved policy in the following areas:

(i) Comprehensive planning for health services for children and adolescents and their families and primary caretakers, including parenting education, nutrition consultation, oral health programs, teen pregnancy prevention and immunizations;

(ii) A continuum of services designed for infants or children with, or at risk for, special health care needs and their families;

(iii) High quality low cost, comprehensive family planning and reproductive health care services;

(iv) Health and support services for pregnant women, lactating and other post partum women, and infants;

(v) Supplemental foods, nutrition education, and referral for health services for eligible pregnant women, lactating and other post partum women, and infants and children at risk;

(vi) Programs to control the complications of diabetes and to identify and develop interventions for the prevention of death and disability from intentional and unintentional injury;

(vii) Public education and marketing campaigns on a spectrum of health related topics; programs which develop and supply health and safety educational materials to schools, local health, and community agencies;

(viii) Surveillance and services designed to reduce death and disease related to cancer, heart disease and stroke by providing public education/awareness programs, screening projects, professional education, and development of community coalitions;

(ix) Surveillance and services that interrupt the transmission of human immunodeficiency virus (HIV) and other sexually transmitted diseases (STD), and reduce associated morbidity and mortality by planning, as well as supporting the individual rights and human dignity of those infected and those considered at risk; and

(x) Surveillance and services that reduce the morbidity and mortality due to tuberculosis and vaccine preventable disease.

(d) The assistant secretary for environmental health provides training, public education services, and technical assistance to local health agencies and other agencies; and provides direct surveillance, monitoring, and enforcement activities to prevent, control, and abate health hazards and nuisances related to:

(i) Contaminated shellfish;

(ii) Contamination due to illegal drug manufacturing and storage;

(iii) Disease carrying insects and rodents;

(iv) Disposal of solid and liquid wastes;

(v) Food service sanitation;

(vi) On-site sewage disposal;

(vii) Public drinking water systems;

(viii) Ionizing radiation;

(ix) Schools, campgrounds, and parks;

(x) Toxic substance exposure; and

(xi) Water recreation facilities.

(e) The assistant secretary for public health laboratories oversees laboratories that aid in the diagnosis, treatment, and prevention of various diseases by:

(i) Testing and analyzing clinical and environmental specimens and samples including food, food products, shellfish, drinking water, and seawater;

(ii) Testing to detect certain treatable metabolic disorders in newborns;

(iii) Testing for radioactivity in materials, mine tailings, and ores; and

(iv) Performing inorganic and organic chemical analyses on drinking water, and other environmental samples such as soil, paint chips, ceramics and potteries, beverages, food, and others.

(f) The assistant secretary for management services provides administrative, financial, contracting, facility information processing, and human resource services to the department's operating programs.

(3)(a) Each assistant secretary is hereby delegated authority to administer the programs within their respective areas of responsibility, including, without limitation, the authority to sign documents on behalf of the secretary and the department. Each assistant secretary is authorized to further delegate his or her authority to such persons and in such manner as deemed necessary or appropriate in the management of the department's business.

(b) In the absence of the secretary, the following are authorized to act on behalf of the department:

(i) The deputy secretary;

(ii) In the absence of the deputy secretary, the state health officer;

(iii) In the absence of the state health officer, the assistant secretary for management services;

(iv) In the absence of all of the foregoing, any assistant secretary.

(c) Any person designated as "acting" in a position described in this section shall have the same authority while so designated as if she or he had been appointed to fill the position on a permanent basis.) (1) DOH exists to protect

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and improve the health of the people of Washington. The department shares this mission with three primary partners:

(a) Professional boards, commissions, and committees, which have varying degrees of statutory authority, ranging from advisory powers to rule adoptions and disciplinary powers;

(b) The state board of health which has statutory authority to adopt rules to protect the public health, and may delegate this authority to the secretary and rescind the delegated authority; and

(c) Local health jurisdictions throughout the state.

(2) DOH is organized into five administrative divisions plus the secretary's office and information resource management offices:

(a) Community and family health;

(b) Environmental health;

(c) Epidemiology, health statistics and public health laboratories;

(d) Health systems quality assurance; and

(e) Management services.

(3) DOH maintains offices in Kent, Olympia, Tumwater, Richland, Shoreline and Spokane. These offices are not complete service locations and are not required to keep complete policy manuals and other records available for public inspection.

**AMENDATORY SECTION** (Amending Order 346, filed 3/24/93, effective 4/24/93)

**WAC 246-01-090 Consumer assistance.** (1) The department provides a consumer assistance statewide toll-free hotline. Consumer assistance personnel assist the public with information, concerns, or complaints about the department and serve as advocates for consumers who are complainants or witnesses in a licensing or disciplinary proceeding. The health consumer assistance line is 1-800-525-0127; its mailing address is P.O. Box ((47891)) 47890, Olympia, WA 98504-((7891))7890.

(2) ((The public may send submissions or written requests for information concerning the course and method of the department's operation to: Rules Coordinator, Management Services, 1300 S.E. Quince Street, P.O. Box 47902, Olympia, WA 98504-7902.)) Individuals may contact the department to obtain or submit information, or make requests by:

(a) Writing to the department at Department of Health, P.O. Box 47890, Olympia, WA 98504-7890; or

(b) Visiting the department's website at: <http://doh.wa.gov>.

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 246-01-040

Department and professional boards—Relationship.

WAC 246-01-070

Department and health professions resource committee—Relationship.

WAC 246-01-100

Current address.

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**WSR 03-04-001**  
**PERMANENT RULES**  
**NOXIOUS WEED**  
**CONTROL BOARD**

[Filed January 22, 2003, 4:07 p.m.]

Date of Adoption: January 22, 2003.

Purpose: The state Noxious Weed Control Board is adopting its annual amendment to the state noxious weed list (chapter 16-750 WAC, State noxious weed list and schedule of monetary penalties) adding two species to the A list, moving one species from the A list to the B list, adding one species to the B list, changing the designation area of two B list weeds (Japanese knotweed and the meadow knapweed complex) and adding two plants to the C list.

Citation of Existing Rules Affected by this Order: Amending WAC 16-750-005, 16-750-011, and 16-750-015.

Statutory Authority for Adoption: Chapters 17.10 and 34.05 RCW.

Adopted under notice filed as WSR 02-21-084 on October 18, 2002.

Changes Other than Editing from Proposed to Adopted Version: Adopted version does not include proposed addition of common groundsel to the Class C noxious weed list. After testimony at the hearing, there was not a consensus, and the board voted not to proceed with that proposed listing.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 3, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 22, 2003

Ray H. Fann  
Chairman

**AMENDATORY SECTION** (Amending WSR 99-24-029, filed 11/23/99, effective 1/3/00)

**WAC 16-750-005 State noxious weed list—Class A noxious weeds.**

Common Name	Scientific Name
bean-caper, Syrian	<i>Zygophyllum fabago</i>
blueweed, Texas	<i>Helianthus ciliaris</i>
broom, Spanish	<i>Spartium junceum</i>
buffalobur	<i>Solanum rostratum</i>

Common Name	Scientific Name
clary, meadow	<i>Salvia pratensis</i>
cordgrass, dense flower	<i>Spartina densiflora</i>
cordgrass, salt meadow	<i>Spartina patens</i>
crupina, common	<i>Crupina vulgaris</i>
flax, spurge	<i>Thymelaea passerina</i>
four o'clock, wild	<i>Mirabilis nyctaginea</i>
goatsrue	<i>Galega officinalis</i>
hawkweed, yellow devil	<i>Hieracium floribundum</i>
hogweed, giant	<i>Heracleum mantegazzianum</i>
hydrilla	<i>Hydrilla verticillata</i>
johnsongrass	<i>Sorghum halepense</i>
knapweed, bighead	<i>Centaurea macrocephala</i>
knapweed, Vochin	<i>Centaurea nigrescens</i>
<u>kudzu</u>	<i>Pueraria montana</i> var. <i>lobata</i>
lawnweed	<i>Soliva sessilis</i>
mustard, garlic	<i>Alliaria petiolata</i>
nightshade, silverleaf	<i>Solanum elaeagnifolium</i>
sage, clary	<i>Salvia sclarea</i>
sage, Mediterranean	<i>Salvia aethiops</i>
((salteedar))	<i>Tamarix ramosissima</i> )
spurge, eggleaf	<i>Euphorbia oblongata</i>
starthistle, purple	<i>Centaurea calcitrapa</i>
thistle, Italian	<i>Carduus pycnocephalus</i>
thistle, milk	<i>Silybum marianum</i>
thistle, slenderflower	<i>Carduus tenuiflorus</i>
velvetleaf	<i>Abutilon theophrasti</i>
woad, dyers	<i>Isatis tinctoria</i>

**AMENDATORY SECTION** (Amending WSR 01-24-035, filed 11/28/01, effective 12/29/01)

**WAC 16-750-011 State noxious weed list—Class B noxious weeds.**

Name	Will be a "Class B designate" in all lands lying within:
(1) blackgrass <i>Alopecurus myosuroides</i>	(a) regions 1, 2, 3, 5, 6, 8, 9, 10  (b) Ferry, Stevens, Pend Oreille counties of region 4  (c) Adams County of region 7.
(2) blueweed <i>Echium vulgare</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10  (b) region 7 except for an area starting at the Stevens County line on SR 291 south to the SR 291 bridge over the Little Spokane River, thence upstream along the Little Spokane River to the first Rutter Parkway Bridge; thence south along the

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	Rutter Parkway to the intersection of Rutter Parkway and Indian Trail Road; thence southerly along Indian Trail Road to a point three miles south (on section line between sections 22 and 27, T-26N, R-42E); thence due west to a point intersecting the line between Ranges 41 and 42; thence north along this line to a point 1/4 mile south of Charles Road; thence northwesterly parallel to Charles Road to a point 1/4 miles south of the intersection of Charles Road and West Shore Road; thence northerly along West Shore Road to the Spokane River (Long Lake); thence southeasterly along the Spokane River to the point of beginning.	(d)	an area beginning at the Washington—Oregon border at the southwest portion of section 5, R32E, T6N, then north to the northwest corner of section 3, R32E, T7N, then east to the northeast corner of section 3, R36E, T7N, then south to southeast portion of section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning.
(3) broom, Scotch <i>Cytisus scoparius</i>	(a) regions 3, 4, 6, 7, 9, 10.	(8) carrot, wild <i>Daucus carota</i>	(a) regions 3, 7 (except where intentionally cultivated)
(4) bryony, white <i>Bryonia alba</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9  (b) region 7 except Whitman County  (c) Franklin County of region 10.	(b) Spokane and Ferry counties of region 4 (except where intentionally cultivated)	
(5) bugloss, common <i>Anchusa officinalis</i>	(a) regions 1, 2, 3, 5, 6, 8, 9, 10  (b) region 4 except Stevens and Spokane counties  (c) Lincoln, Adams, and Whitman counties of region 7.	(c) region 6, except Yakima County (except where intentionally cultivated)	
(6) bugloss, annual <i>Anchusa arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9  (b) Lincoln and Adams counties  (c) Whitman County except ranges 43 through 46 East of Townships 16 through 20 North.	(d) region 9, except Yakima County (except where intentionally cultivated)	
(7) camelthorn <i>Alhagi maurorum</i>	(a) regions 1, 2, 3, 4, 5, 7, 8, 9  (b) region 6 except those portions of Sections 23, 24, 25, and 29 through 36, T16N, R27E, W.M. lying outside Inter-county Weed District No. 52 and except Sections 1 through 12, T15N, R27E, W.M. in Grant County and except the area west of Highway 17 and north of Highway 26 in Adams County  (c) Franklin, Columbia, Garfield, and Asotin counties of region 10	(e) region 10, except Walla Walla County (except where intentionally cultivated).	
		(9) catsear, common <i>Hypochaeris radicata</i>	(a) regions 3, 4, 6, 7, 10
		(10) chervil, wild <i>Anthriscus sylvestris</i>	(b) region 9 except Klickitat County.  (a) regions 1, 3, 4, 6, 7, 9, 10
		(11) cinquefoil, sulfur <i>Potentilla recta</i>	(b) region 5 except those portions of Thurston County within T15, 16, 17N, R2, 3, 4W  (c) region 2 except Guemes Island in Skagit County  (d) region 8 except Clark County.  (a) regions 1, 3, 8, 10
		(12) cordgrass, smooth <i>Spartina alterniflora</i>	(b) region 2 except Skagit County  (c) region 4 except Stevens, Ferry, and Pend Oreille counties  (d) region 5 except Thurston County  (e) region 6 except Yakima County  (f) region 7 except Spokane County  (g) region 8 except Lewis County  (h) region 9 except Klickitat County.  (a) regions 1, 3, 4, 5, 6, 7, 9, 10

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	(b) region 2 except Padilla Bay of Skagit County (c) region 8 except bays and estuaries of Pacific County.	(21) hawkweed, orange <i>Hieracium aurantiacum</i>	(a) regions 3, 6, 9, 10  (b) Clallam County of region 1 (c) Skagit County of region 2 (d) Ferry County of region 4 (e) Thurston and King counties of region 5 (f) Lincoln and Adams counties of region 7 (g) Lewis County of region 8.
(13) cordgrass, common <i>Spartina anglica</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10  (b) region 2 except bays and estuaries of Skagit and Island counties and except bays and estuaries north of Everett in Snohomish County.	(22) hawkweed, polar <i>Hieracium atratum</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10  (b) region 5 outside the boundaries of Mt. Rainier National Park.
(14) daisy, oxeye <i>Leucanthemum vulgare</i>	(a) regions 7, 10  (b) region 9 except those areas lying within Klickitat and Yakima counties west of Range 13 East (c) region 6 except those areas lying within Yakima and Kittitas counties west of Range 13 E.	(23) hawkweed, smooth <i>Hieracium laevigatum</i>	(a) regions 1, 3, 4, 5, 6, 7, 8, 9, 10  (b) San Juan, Island, and Skagit counties of region 2. (a) regions 1, 2, 3, 5, 6, 7, 8, 10
(15) elodea, Brazilian <i>Egeria densa</i>	(a) regions 3, 4, 6, 7, 9, 10  (b) Lewis County of region 8 (c) Clallam County of region 1.	(24) hawkweed, yellow <i>Hieracium caespitosum</i>	(b) region 4 except north of T32N in Pend Oreille County and east Highway 395 and north of Highway 20 in Stevens County (c) region 9 except sections 32, 33 and 34 of T6N, R12E, and sections 4, 5, 6, and 7 of T5N, R12E, and section 12 of T5N, R11E, of Klickitat County.
(16) fanwort <i>Cabomba caroliniana</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10  (b) region 8 except T8N, R3W of Cowlitz County.	(25) hedgeparsley <i>Torilis arvensis</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 8, 10  (b) Yakima, Benton, Franklin counties (c) Klickitat County except those lands lying within T4N, R10E, R11E, R12E, R13E, R14E; T3N, R10E, R11E, R12E, R13E; T2N, R12E, R13E.
(17) fieldcress, Austrian <i>Rorippa austriaca</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9  (b) regions 7 and 10 except within the Palouse River Canyon from Big Palouse Falls to the Snake River.	(26) helmet, policeman's <i>Impatiens glandulifera</i>	(a) regions 1, 3, 4, 6, 7, 8, 9, 10  (b) region 2 except Whatcom County (c) region 5 except Pierce and Thurston counties.
(18) floating heart, yellow <i>Nymphoides peltata</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10  (b) region 4 except the Spokane River between Long Lake Dam and Nine Mile Dam.	(27) herb-Robert <i>Geranium robertianum</i>	(a) regions 3, 4, 6, 7, 9, 10
(19) gorse <i>Ulex europaeus</i>	(a) regions 3, 4, 6, 7, 9, 10  (b) Skagit and Whatcom counties of region 2 (c) Thurston, Pierce, and King counties of region 5 (d) Wahkiakum, Cowlitz, and Lewis counties of region 8 (e) Clallam County of region 1.	(28) houndstongue <i>Cynoglossum officinale</i>	(a) Kittitas County of region 6.
(20) hawkweed, mouseear <i>Hieracium pilosella</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10  (b) region 5 except Thurston County (c) Thurston County lying within T17N, R1W, S31; T16N, R2W, S30 W 1/2; T16N, R3W, S25, SE1/4; T16N, R3W, S36, N1/2; T16N, R2W, S31, NW1/4.	(29) indigobush <i>Amorpha fruticosa</i>	(a) regions 1, 2, 3, 4, 5, 6  (b) regions 7 and 10 except within 200 feet of the Snake River from Central Ferry downstream

**PERMANENT**

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
(30) knapweed, black <i>Centaurea nigra</i>	(c) regions 8, 9, and 10 except within 200 feet of the Columbia River.  (a) regions 1, 2, 3, 4, ((5,)) 7, 9, 10  (b) <u>region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties</u>  (c) region 6 except Kittitas County  ((e))) region 8 except Clark County. (d)	(33) knapweed, meadow <i>Centaurea jacea x nigra</i>	(a) regions 1, 2, 3, 4, ((5,)) 7, 9, 10  (b) <u>region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties</u>  (c) region 6 except Kittitas County  ((e))) region 8 except Clark County. (d)
(31) knapweed, brown <i>Centaurea jacea</i>	(a) regions 1, 2, 3, 4, ((5,)) 7, 9, 10  (b) <u>region 5 except that area below the ordinary highwater mark of the Nisqually River, beginning at Alder Dam and downstream to the mouth of the Nisqually River in Pierce and Thurston counties</u>  (c) region 6 except Kittitas County  ((e))) region 8 except Clark County. (d)	(34) knapweed, Russian <i>Acroptilon repens</i>	(a) regions 1, 2, 5, 7, 8  (b) region 4 except that area lying within the boundaries of the Colville Indian Reservation within Ferry County  (c) Adams County of region 6 except for the area west of Highway 17 and North of Highway 26  (d) Intercounty Weed District No. 52  (e) region 10 except Franklin County.
(32) knapweed, diffuse <i>Centaurea diffusa</i>	(a) regions 1, 2, 5, 8  (b) Grant County lying in Townships 13 through 16 North, Ranges 25 through 27 East; Townships 17 and 18 N., Ranges 25 through 30 East; Townships 19 and 20 North, Ranges 29 and 30 East; T21N, R23E, Sections 1 through 30; T21N, R26E, Sections 5, 6, 7, 8, 17, and 18; East 1/2 Township 21N, Range 27E.; T21N, Ranges 28 through 30 E; those portions of Townships 22 through 28N, Ranges 28 through 30 E.; those portions of Township 22 through 28N., Ranges 23 through 30E. lying in Grant County; all W.M.  (c) Adams County except those areas within T15N, R36E, Section 36; T15N, R37E, Sections 22, 26, 27, 28, 31, 32, 33 and 34; T15N, R37E, western half of Sections 23, 24 and 25; T15N, R38E, Sections 2, 10, 11, 14, 15, 19 and 20; T16N, R38E, Sections 34 and 35; T17N, R37E, Sections 5 and 6  (d) Franklin County of regions 9 and 10.	(35) knapweed, spotted <i>Centaurea biebersteinii</i>	(a) regions 1, 2, 3, 5, 6, 8, 9  (b) Ferry County of region 4  (c) Adams and Whitman counties of region 7  (d) region 10 except Garfield County.  (e) Kittitas County of region 6.
		(36) knotweed, giant <i>Polygonum sachalinense</i>	(a) Kittitas County of region 6.
		(37) knotweed, Himalayan <i>Polygonum polystachyum</i>	(a) <u>Kittitas County of region 6.</u>
		((37)) (38) knotweed, Japanese <i>Polygonum cuspidatum</i>	(a) Kittitas County of region 6  (b) <u>Chelan County of regions 3 and 6</u>  (c) <u>Pend Oreille County of region 4.</u>
		((38)) (39) kochia <i>Kochia scoparia</i>	(a) Clallam County of region 1  (b) Skagit and Whatcom counties of region 2  (c) Pend Oreille County of region 4  (d) King County of region 5  (e) Kittitas County of region 6.
		((39)) (40) lepyrodiclis <i>Lepyrodiclis holosteoides</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	(b) region 7 except an area within Whitman County east of the Pullman—Wawawai Road from Wawawai to Pullman and south of State Highway 270 from Pullman to Moscow, Idaho.	((42)) (43) loosestrife, wand <i>Lythrum virgatum</i>	(a) regions 1, 4, 7, 8
((40)) (41) loosestrife, garden <i>Lysimachia vulgaris</i>	(a) regions 1, 2, 3, 4, 6, 7, 8, 9, 10  (b) region 5 except King County  (c) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line.		(b) region 2 except Snohomish County  (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside  (d) region 5 except King County  (e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line
((41)) (42) loosestrife, purple <i>Lythrum salicaria</i>	(a) regions 1, 4, 7, 8  (b) region 2 except Snohomish County  (c) region 3 except within 100 feet of the ordinary highwater mark of the Okanogan River from the Canadian border south to Riverside  (d) Grays Harbor, Mason, Kitsap, and Thurston counties of region 5  (e) Those portions of King County lying north of I-90 and east of the line extending from SR522 to SR202 to E. Lake Sammamish Parkway; west of I-5 including Vashon Island; south of I-90 and east and south of I-405 to the county line  (f) Pierce County, except those areas lying within T2D, 21, 22N, R1W and R1E, all sections  (g) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed  (h) region 9 except Benton County  (i) region 10 except Walla Walla County  (j) Intercounty Weed Districts No. 51 and No. 52.		(f) region 6 except that portion of Grant County lying northerly of the Frenchmen Hills-O'Sullivan Dam Road, southerly of Highway Interstate 90, easterly of the section line of the location of County Road J SW/NW if constructed and westerly of the section line of the location of County Road H SE/NE if constructed  (g) region 9 except Benton County  (h) region 10 except Walla Walla County  (i) Intercounty Weed Districts No. 51 and No. 52.  ((43)) (44) nutsedge, yellow <i>Cyperus esculentus</i>
			(a) regions 1, 2, 3, 4, 5, 7, 8  (b) region 6 except those areas lying between State Highway 26 and State Highway 28, and westerly of Dodson Road in Grant County, and except S 1/2, Sec. 2, T20N, R25E., W.M.  (c) region 9 except:  (i) except those areas lying within the following boundary description within Yakima County: Beginning at the intersection of Highway 12 and Parker Heights Road and continuing easterly to Konnowac Pass Road follow said road north to the intersection of Konnowac Pass Road and Nightingale Road. The northern boundary shall be the Roza Canal, continuing from the established point at Nightingale Road. The boundaries will follow the Roza Canal

PERMANENT

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	easterly to the County Line Road. The east boundaries will be the Yakima/Benton County Line from a point beginning at the County Line and Highway 22 (near Byron) continuing westerly along Highway 22 (to near the city of Mabton) to the intersection of Highway 22 and the Reservation Boundary (Division Road) and continuing north to the Yakima River. Then it will follow the river northwest to the Wapato-Donald Road continuing north along said road to Highway 12 then Highway 12 to Parker Heights Road.	(b)	region 5, that portion of Pierce County lying south or east of a boundary beginning at the White River and State Highway 410, then west along State Highway 410 to intersection with State Highway 162 (Orting) to intersection with Orville Road, then south along Orville Road to intersection with Kapowsin Highway (304th Street East), then west following Kapowsin Highway to intersection with State Route 7, then south along State Route 7 to intersection with State Route 702, then west along State Route 702 to intersection with State Route 507, then southwest along State Route 507 to intersection with the Nisqually River.
	(ii) an area lying southerly of State Route 14 and within T2N, Ranges 13 and 14 E of Klickitat County	(a)	<u>(51) Saltcedar</u> <i>Tamarix ramosissima</i>
	(d) region 10 except Walla Walla County.	(a)	<u>regions 1, 2, 3, 4, 5, 6, 7, 9, 10</u>
((44)) (45) oxtongue, hawkweed <i>Picris hieracioides</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except Skamania County.	(b)	<u>region 6 except Grant County</u>
	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except Clark, Cowlitz, and Wahkiakum counties.	(c)	<u>region 7 except Adams County</u>
((45)) (46) parrotfeather <i>Myriophyllum aquaticum</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) Intercounty Weed Districts No. 51 and 52	(d)	<u>region 9 except Benton and Franklin counties</u>
	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) Kittitas County of region 6	(e)	<u>region 10 except Franklin County</u>
((46)) (47) pepperweed, perennial <i>Lepidium latifolium</i>	(a) regions 1, 2, 3, 4, 5, 6, 7, 8, 10 (b) Adams County of region 6 except for the area west of Highway 17 and north of Highway 26.	(a)	<u>regions 1, 2, 3, 4, 5, 7, 8</u>
	(a) regions 1, 2, 3, 4, 5, 6, 7, 9, 10 (b) region 8 except T8N, R3W, S14 of Cowlitz County.	(b)	Adams County of region 6 except for that area lying within Intercounty Weed District No. 52
	(a) Skagit County of region 2 (b) Kittitas County of region 6	(c)	Intercounty Weed District No. 51
	(c) Adams County (d) Clallam County of region 1.	(d)	Kittitas County of region 6.
((47)) (48) primrose, water <i>Ludwigia hexapetala</i>	(a) regions 3, 4, 6, 7, 9, 10	(a)	regions 1, 2, 3, 5, 8, 9
		(b)	Franklin County except T13N, R36E; and T14N, R36E
		(c)	Adams County except those areas lying east of a line running north from Franklin County along the western boundary of Range 36 East to State Highway 26 then north on Sage Road until it intersects Lee Road, then due north until intersection with Providence Road, then east to State Highway 261, then north along State Highway 261 to its intersection with Interstate 90, henceforth on a due north line to intersection with Bauman Road, then north along Bauman Road to its terminus, then due north to the Lincoln County line.
((48)) (49) puncturevine <i>Tribulus terrestris</i>			
((49)) (50) ragwort, tansy <i>Senecio jacobaea</i>			

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
	(d) region 6 except that portion lying within Grant County that is southerly of State Highway 28, northerly of Interstate Highway 90 and easterly of Grant County Road 1 Northwest (e) Stevens County north of Township 33 North of region 4 (f) Ferry and Pend Oreille counties of region 4 (g) Asotin County of region 10 (h) Garfield County south of Highway 12 (i) Columbia County from the Walla Walla County line on Highway 12, all areas south of Turner Road; at Turner Road to the Garfield county line, all areas south and east of Turner Road (j) Whitman County lying in Ranges 43 through 46 East of Townships 15 through 20 North; T14N, Ranges 44 through 46 East; and T13N, Ranges 45 and 46 East.		Highland Loop Road, then south along Highland Loop Road to intersection with State Highway 20, then west along State Highway 20 to intersection with State Highway 25 (c) region 7 except those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border (d) Franklin County (e) region 9 except Klickitat County (f) in all lands lying within Asotin County, Region 10, except as follows: T11N, R44E, Sections 25, 26, 27, 28, 29, 31, 32, 33, 34, and 35; T11N, R45E, Sections 21, 22, 23, and 25; T11N, R36E, Sections 19, 20, 21, 28, 29, 30, 31, 32, and 33; T10N, R44E, Sections 1, 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 15, and 16; T10N, R45E, Sections 23 and 24; T10N, R46E, Sections 7, 8, 17, 18, 19, 20, 21, 22, 27, 34, and 35; T9N, R46E, Sections 1, 2, 12, 13, 14, 23, 24, 25, 26, 35, and 36; T9N, R47E, Sections 18, 19, 30, and 31; T8N, R46E, Sections 1, 2, 3, 9, 10, 11, 12, 13, 14, 15, 16, 23, and 24; T8N, R47E, Sections 8, 17, 18, 19, 20, 29, 30, 31, and 32.
((52)) (54) sowthistle, perennial <i>Sonchus arvensis</i> ssp. <i>arvensis</i>	(a) regions 1, 2, 3, 4, 7, 8, 9, 10 (b) Adams County of region 6 (c) region 5 except for sections 28, 29, 30, 31, 32, and 33 in T19N, R1E of Thurston and Pierce counties.		
((53)) (55) spurge, leafy <i>Euphorbia esula</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9, 10 (b) region 7 except as follows: (i) T27N, R37E, Sections 34, 35, 36; T27N, R38E, Sections 31, 32, 33; T26N, R37E, Sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 16, 26; T26N, R38E, Sections 5, 6, 7, 8 of Lincoln County (ii) T24N, R43E, Section 12, Qtr. Section 3, Parcel No. 9068 of Spokane County.	((55)) (57) Swainsonpea <i>Sphaerophysa salsula</i>	(a) regions 1, 2, 3, 4, 5, 7, 8 (b) Columbia, Garfield, Asotin, and Franklin counties (c) an area beginning at the Washington—Oregon border at the southwest portion of Section 15, R32E, T6N, then north to the northwest corner of Section 3, R32E, T7N, then east to the northeast corner of Section 3, R36E, T7N, then south to the southeast portion of Section 15, R36E, T6N, at the Washington—Oregon border, then west along the Washington—Oregon border to the point of beginning (d) Weed District No. 3 of Grant County (e) Adams County of region 6.
((54)) (56) starthistle, yellow <i>Centaurea solstitialis</i>	(a) regions 1, 2, 3, 5, 6, 8 (b) region 4 except those areas within Stevens County bounded by a line beginning at the intersection of State Highway 20 and State Highway 25, then north to intersection with Pinkston Creek Road, then east along Pinkston Creek Road to intersection with		

Name	Will be a "Class B designate" in all lands lying within:	Name	Will be a "Class B designate" in all lands lying within:
((56)) (58) thistle, musk <i>Carduus nutans</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10  (b) Spokane and Pend Oreille counties.		(c) region 8 except within 200 feet of the Columbia River
((57)) (59) thistle, plumeless <i>Carduus acanthoides</i>	(a) regions 1, 2, 3, 5, 6, 7, 8, 9, 10  (b) region 4 except those areas within Stevens County lying north of State Highway 20.		(d) Adams County of region 6  (e) in all water bodies of public access, except the Pend Oreille River, in Pend Oreille County of region 4.
((58)) (60) thistle, Scotch <i>Onopordum acanthium</i>	(a) regions 1, 2, 3, 4, 5, 6, 8, 9  (b) region 7 except for those areas within Whitman County lying south of State Highway 26 from the Adams County line to Colfax and south of State Highway 195 from Colfax to Pullman and south of State Highway 270 from Pullman to the Idaho border		
((59)) (61) toadflax, Dalmatian <i>Linaria dalmatica</i> ssp. <i>dalmatica</i>	(c) Franklin County.  (a) regions 1, 2, 5, 8, 10  (b) Douglas County of region 3 lying south of T25N, west of R25E, and east of R28E  (c) Okanogan County lying within T 33, 34, 35N, R19, 20, 21, 22E, except the southwest, southeast, and northeast quarters of the northeast quarter of section 27, T35N, R21E; and the northeast quarter of the southeast quarter of section 27, T35N, R21E  (d) Kittitas, Chelan, Douglas, and Adams counties of region 6  (e) Intercounty Weed District No. 51  (f) Weed District No. 3 of Grant County  (g) Lincoln and Adams counties  (h) The western two miles of Spokane County of region 7  (i) region 9 except as follows: (i) those areas lying within Yakima County (ii) those areas lying west of the Klickitat River and within Klickitat County.		
((60)) (62) watermilfoil, Eurasian <i>Myriophyllum spicatum</i>	(a) regions 1, 9, 10  (b) region 7 except Spokane County		
			AMENDATORY SECTION (Amending WSR 01-24-035, filed 11/28/01, effective 12/29/01)
			<b>WAC 16-750-015 State noxious weed list—Class C noxious weeds.</b>
		Common Name	Scientific Name
		babysbreath	<i>Gypsophila paniculata</i>
		beard, old man's	<i>Clematis vitalba</i>
		bindweed, field	<i>Convolvulus arvensis</i>
		canarygrass, reed	<i>Phalaris arundinacea</i>
		cockle, white	<i>Silene latifolia</i> ssp. <i>alba</i>
		cocklebur, spiny	<i>Xanthium spinosum</i>
		cress, hoary	<i>Cardaria draba</i>
		dodder, smoothseed alfalfa	<i>Cuscuta approximata</i>
		goatgrass, jointed	<i>Aegilops cylindrica</i>
		hawkweed, nonnative species	(( <i>Hieracium</i> ) <i>Hieracium</i> sp., except species designated in the note in the left-hand column
		Note:	
		This listing includes all species of (( <i>Hieracium</i> ) <i>Hieracium</i> , except the following:	
		• Species designated as Class A noxious weeds in WAC 16-750-005;	
		• Species designated as Class B noxious weeds in WAC 16-750-011;	
		• native species designated below:	
		– Canada hawkweed ( <i>H. canadense</i> )	
		– houndstongue hawkweed ( <i>H. cynoglossoides</i> )	
		– long-beaked hawkweed ( <i>H. longiberbe</i> )	
		– narrow-leaved hawkweed ( <i>H. umbellatum</i> )	
		– slender hawkweed ( <i>H. gracile</i> )	
		– western hawkweed ( <i>H. albertinum</i> )	
		– white-flowered hawkweed ( <i>H. albiflorum</i> )	
		– woolley-weed ( <i>H. scouleri</i> )	
		henbane, black	<i>Hyoscyamus niger</i>
		iris, yellow flag	<i>Iris pseudocorus</i>
		ivy, English, 4 cultivars only:	<i>Hedera hibernica</i> 'Hibernica' <i>Hedera helix</i> 'Baltica' <i>Hedera helix</i> 'Pittsburgh' <i>Hedera helix</i> 'Star'

Common Name	Scientific Name	Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.
mayweed, scentless	<i>Matricaria perforata</i>	
poison-hemlock	<i>Conium maculatum</i>	
<u>reed, common, nonnative geno types</u>	<i>Phragmites australis</i>	
rye, cereal	<i>Secale cereale</i>	
spikeweed	<i>Hemizonia pungens</i>	
<u>Spurge, myrtle</u>	<i>Euphorbia myrsinites L.</i>	
St. Johnswort, common	<i>Hypericum perforatum</i>	
tansy, common	<i>Tanacetum vulgare</i>	
thistle, bull	<i>Cirsium vulgare</i>	
thistle, Canada	<i>Cirsium arvense</i>	
toadflax, yellow	<i>Linaria vulgaris</i>	
water lily, fragrant	<i>Nymphaea odorata</i>	
whitetop, hairy	<i>Cardaria pubescens</i>	
wormwood, absinth	<i>Artemisia absinthium</i>	

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 14, Amended 0, Repealed 0.

Effective Date of Rule: March 1, 2003.

January 16, 2003

Bonita H. Jacques

for Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

## Chapter 388-180 WAC

### STANDARDS FOR HEALTH AND SAFETY REVIEWS OF THE WASHINGTON STATE SCHOOL FOR THE DEAF

#### WSR 03-04-013 PERMANENT RULES DEPARTMENT OF SOCIAL AND HEALTH SERVICES

(Children's Administration)

[Filed January 24, 2003, 3:43 p.m., effective March 1, 2003]

Date of Adoption: January 16, 2003.

Purpose: Legislation passed in 2002, chapter 208, Laws of 2002, directed DSHS to develop safety standards in WAC for review of the residential facilities and residential-related policies and procedures for the Washington School for the Deaf. The new chapter 388-180 WAC guides DSHS-Children's Administration, Division of Licensed Resources in conducting the health and safety reviews. The safety standards provide for greater safety of residential students at the School for the Deaf.

Statutory Authority for Adoption: RCW 74.15.030 and 74.20.280.

Adopted under notice filed as WSR 02-23-057 on November 15, 2002.

Changes Other than Editing from Proposed to Adopted Version: *Proposed Rule:* WAC 388-180-0160 What health and safety standards and written policies are required at WSD?

(2) The school must have written policies it follows that:

*Based on comments received the change to the rule, including a numbering correction, the adopted rule is as follows:* WAC 388-180-0160 What health and safety standards and written policies will the monitors be looking for when conducting the health and safety reviews of the school?

(3) The department will be reviewing the written policies and procedures of the school that:

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 14, Amended 0, Repealed 0.

#### NEW SECTION

**WAC 388-180-0100** What is the purpose of this chapter? The purpose of this chapter is to outline the process of investigating child abuse or neglect at Washington State School for the Deaf and establish rules for completing health and safety monitoring reviews of the school.

#### DEFINITIONS

#### NEW SECTION

**WAC 388-180-0110** What are the definitions for this chapter? The following definitions apply to this chapter:

"CA/N" means child abuse or neglect as defined in chapter 26.44 WAC.

"Department" means the department of social and health services (DSHS).

"DLR" means the division of licensed resources, a division of children's administration, department of social and health services.

"Residential staff" means individuals in charge of supervising the day-to-day living situation of the children in the residential portion of the school.

"School" means the Washington State School for the Deaf.

"Superintendent" means the superintendent of the Washington State School for the Deaf.

"WSD" means the Washington State School for the Deaf.

PERMANENT

## CHILD PROTECTIVE SERVICES (CPS) INVESTIGATIONS

### NEW SECTION

**WAC 388-180-0120 Is CPS required to investigate allegations of CA/N of students at the school?** The department's child protective services (CPS) must investigate referrals of alleged child abuse or neglect occurring at the Washington State School for the Deaf. This includes alleged incidents of students abusing other students.

### NEW SECTION

**WAC 388-180-0130 What is included in the CPS investigation?** (1) A CPS investigation at the school must determine if:

- (a) Abuse or neglect is substantiated or "founded"; and
- (b) A referral to law enforcement is appropriate.

(2) CPS must send a copy of the investigative report for incidents of alleged abuse or neglect to the school's superintendent.

(3) CPS may include recommendations for increasing student safety to the superintendent and the board of trustees or its successor board.

## HEALTH AND SAFETY REVIEWS

### NEW SECTION

**WAC 388-180-0140 What health and safety reviews are required?** The department must complete health and safety reviews of the school as follows.

(1) A comprehensive health and safety review of WSD must be completed every three years; and

(2) Monitoring health and safety reviews must be completed at least quarterly until December 1, 2006.

### NEW SECTION

**WAC 388-180-0150 Who receives a copy of the completed health and safety reports?** (1) The department must provide a copy of the comprehensive health and safety review report of the school to:

- (a) The Governor;
- (b) The legislature;
- (c) The superintendent; and
- (d) The school's board of trustees or its successor board.

(2) The department provides a copy of the periodic monitoring health and safety review reports of the school to the superintendent and to the Governor.

### NEW SECTION

**WAC 388-180-0160 What health and safety standards and written policies will the monitors be looking for when conducting their health and safety reviews of the school? Reporting requirements**

The health and safety standards that apply to WSD are as follows:

(1) All residential program personnel and volunteer staff at the school must comply with the mandatory reporting requirements of child abuse or neglect, RCW 26.44.020.

(2) The school must comply with all applicable fire marshal and department of health requirements.

### **Written policies and procedures**

(3) The department will be reviewing the written policies and procedures of the school that:

(a) Promote a program aimed at providing personal safety and protection of all students residing at the school;

(b) Provide sufficient staffing levels on all shifts to meet the physical, emotional, and safety needs of all students, as required under RCW 72.40.240;

(c) Implement and maintain effective admission and retention policies that protect all students from sexual victimization, as required under RCW 72.40.270;

(d) Implement and maintain an effective communication system between educational staff and residential staff and parents and/or legal guardians;

(e) Ensure that the residential facility meets all applicable fire and health requirements and promote environmental safety against physical risk or harm to students;

(f) Minimize student-to-student conflict or harm when transporting students;

(g) Conduct and document background and CA/N checks on all staff to determine each employee's suitability for employment at the school (see chapter 388-06 WAC);

(h) Provide all students with training on self-protection from abuse or neglect, as required under RCW 72.40.230 and 72.40.260;

(i) Implement and maintain effective child protection policies that include proper reporting of incidents, notification, documentation, and cooperation with the department and law enforcement;

(j) Describe what procedures staff must follow when they have reason to believe a student may have been abused or neglected, as defined under RCW 26.44.020; and

(k) Maintain adequate documentation of all abuse or neglect incidents.

### NEW SECTION

**WAC 388-180-0170 What specific areas must be included in the comprehensive health and safety review?**

(1) In conducting a comprehensive health and safety review of the school, the department must review the children's administration's case and management information system (CAMIS) records for any child abuse or neglect referrals and the disposition of the investigations.

(2) The reviewers must:

(a) Examine the residential facilities for health and safety (a specific list of elements for review are outlined in WAC 388-180-0230);

(b) Develop appropriate questionnaires or survey tools for interviews;

(c) Conduct interviews of staff, students, parent, teacher, and community stakeholders for concerns of student health and safety at the school.

(d) Review facility logs, including incident reports and daily shift logs;

(e) Review medication policies, including documentation of medicine disbursement when and by whom;

(f) Review admissions and expulsion policies for compliance with RCW 72.40.040;

(g) Review staff coverage policies for compliance with RCW 72.40.240 and 72.40.270;

(h) Review behavior management policy for compliance with RCW 72.40.220, including a description of the de-escalation techniques used with different ages or developmental levels of students;

(i) Review employee/volunteer supervision policies for compliance with RCW 72.40.250;

(j) Review policies for protecting students from abuse or neglect policies for compliance with RCW 72.40.250;

(k) Review any corrective action plans including implementing the written plan of action to assure health and safety and prevention of abuse or neglect incidents as directed in RCW 72.40.250;

(l) Review the documentation of awareness and prevention training of staff for compliance with RCW 72.40.230 and 72.40.260; and

(m) Sample criminal history and CA/N checks of school employees for compliance with the school's criminal history inquiry and FBI fingerprinting process.

#### NEW SECTION

**WAC 388-180-0180 What health and safety areas must be included in the monitoring review?** (1) The health and safety areas covered in the monitoring review must include, but are not limited to, the following:

(a) Inspection and evaluation of the school's incident log;

(b) Child protective services investigation documentation;

(c) Residential program policies and procedures;

(d) Residential facilities, cafeteria, nurse's station, and all other venues where residential students frequent;

(e) Staff, student, and parent interviews; and

(f) Review any corrective action plans including implementing the written plan of action to assure health and safety and prevention of abuse or neglect incidents.

(2) The monitoring review may include, but is not limited to, the following:

(a) Written personnel policies and procedures;

(b) Personnel records including background check results; and

(c) Job descriptions and history of personnel training.

#### NEW SECTION

**WAC 388-180-0190 Must WSD allow the department access to the records of the school?** Consistent with federal law, the school must give the department complete access to all records and documents requested by the reviewers in monitoring and conducting the reviews of the school.

#### NEW SECTION

**WAC 388-180-0200 Must WSD allow the department access to all students and staff for the reviews?** Consistent with federal law, the school must give the department complete access to students and staff requested by the reviewers in monitoring and conducting the reviews of the school.

#### NEW SECTION

**WAC 388-180-0210 What must be included in the incident documentation?** The incident log documentation must include:

(1) The students involved (not identified to the reviewers);

(2) The date and time of the incident;

(3) A description of what occurred, any injury and severity of injury;

(4) Any other persons present at the time of the incident; and

(5) Any action taken by WSD staff, including notification of the child's parents.

#### NEW SECTION

**WAC 388-180-0220 What are the staffing requirements for the residential portion of the school?** (1) A staffing ratio of 1:7 must be maintained for residential students while students are in dorms or cottages and when they are participating in elective activities.

(2) A staffing ratio of 1:9 must be maintained for visiting and day students while they are in the residential settings.

#### NEW SECTION

**WAC 388-180-0230 What are the physical environment safety requirements for the residential facilities?**

The school must ensure that the residential facilities comply with the applicable state fire marshal and department of health regulations, including the following:

(1) The grounds, office, living areas, kitchen, bedrooms, bathrooms, shops, recreational areas, and laundry areas are clean and free of hazardous conditions.

(2) Furnishings are clean, comfortable, durable, and safe.

(3) Cleaning products and toxic chemicals are securely stored.

(4) Medications are securely stored.

(5) First-aid supplies are readily available.

(6) Emergency lighting devices are available.

(7) Kitchen and bathrooms are ventilated.

(8) The facilities regularly conduct and document fire drills.

(9) Smoke detectors are regularly inspected and the results of the inspections are documented.

(10) Procedures for evacuation and other emergencies are posted, reviewed, and tested at regular intervals.

**WSR 03-04-022**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed January 27, 2003, 2:36 p.m.]

Date of Adoption: January 17, 2003.

Purpose: WAC 180-79A-155, amendment clarifies and simplifies the process for the submission of the dean's affidavit regarding the certificate applicant's moral character.

Citation of Existing Rules Affected by this Order: Amending X [WAC 180-79A-155].

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 02-24-043 on December 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 01-09-006, filed 4/5/01, effective 5/6/01)

**WAC 180-79A-155 Good moral character and personal fitness—Necessary supporting evidence by applicants.** All applicants for certification shall submit the following:

(1) An affidavit from the applicant indicating that he or she has not been convicted of any crime or a complete disclosure of all arrests and subsequent dispositions of such arrests. In the event of a conviction for any arrest, the applicant shall state reasons why such conviction does not reflect adversely on the requirement to possess good moral character and be personally fit.

(2) An affidavit from the applicant that he or she has no history of serious behavioral problems or a complete disclosure of the nature and status of all such problems, including the names and addresses of health practitioners who have treated the applicant within the past ten years and an executed consent form permitting the superintendent of public instruction to contact and consult with such health practitioners and for such health practitioners to fully disclose medical information related to such behavioral problems.

(3) An affidavit from the dean of the college or school of education or one or more officials designated by such dean,

or, if none, by the college or university president, where the applicant completed his or her approved preparation program, that indicates that a designated college or university official has contacted several faculty members who personally know or knew the applicant and has no knowledge of any relevant information related to the applicant's character or fitness that would adversely affect the applicant's ability to serve in a certificated role or a statement from such affiant of the reasons why it is not possible to make such an affidavit.

(4) If the affidavit described in subsection (3) of this section is impossible or impractical to obtain, the applicant shall submit to the superintendent of public instruction the following:

(a) ~~((A statement as to why it is impossible or impractical to secure the affidavit required by subsection (3) of this section;~~

((b))) A complete employment history, including the names, addresses, and phone numbers of the immediate supervisor of such applicant when an employee; and

((e))) (b) The names, addresses, and phone numbers of three character references who are not related to the applicant.

(5) If the applicant holds or has held a certificate in any other state, such applicant shall prepare one of the following affidavits for each such state:

(a) An affidavit that such certificate has not been suspended, surrendered, or revoked. The superintendent of public instruction shall determine the status of certificates held by applicants in any other state to find if such certificates have been suspended, surrendered or revoked.

(b) An affidavit which shall fully disclose the reasons for the suspension, surrender, or revocation of the certificate. Such affidavit shall be submitted directly to the superintendent of public instruction.

**WSR 03-04-023**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**

[Filed January 27, 2003, 2:39 p.m.]

Date of Adoption: January 17, 2003.

Purpose: WAC 180-82-110, amendment clarifies language to align the special education endorsement waiver with the performance-based endorsements.

Citation of Existing Rules Affected by this Order: Amending X [WAC 180-82-110].

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 02-24-045 on December 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 00-18-063, filed 9/1/00, effective 10/2/00)

**WAC 180-82-110 Exceptions to classroom teacher assignment policy.** Exceptions to the classroom teacher assignment policy specified in WAC 180-82-105 shall be limited to the following:

(1) Upon determination by school districts that teachers have the competencies to be effective teachers in areas other than their endorsed areas, individuals with initial, residency, endorsed continuing, or professional teacher certificates who have completed provisional status with a school district under RCW 28A.405.220 may be assigned to classes other than in their areas of endorsement. If teachers are so assigned, the following shall apply:

(a) A designated representative of the district and any such teacher so assigned shall mutually develop a written plan which provides for necessary assistance to the teacher, and which provides for a reasonable amount of planning and study time associated specifically with the out-of-endorsement assignment;

(b) Such teachers shall not be subject to nonrenewal or probation based on evaluations of their teaching effectiveness in the out-of-endorsement assignments;

(c) Such teaching assignments shall be approved by a formal vote of the local school board for each teacher so assigned; and

(d) The assignment of such teachers for the previous school year shall be reported annually to the state board of education by the employing school district as required by WAC 180-16-195. Included in the report shall be the number of teachers in out-of-endorsement assignments and the specific assistance being given to the teachers.

(2) Teachers with initial, residency, endorsed continuing, or professional teacher certificates who have not completed provisional status with a school district under RCW 28A.405.220 may be assigned to one out-of-endorsement assignment for a maximum of two periods (not more than forty percent full-time equivalent) a day. Conditions described in subsection (1)(a) through (d) of this section shall apply to teachers so assigned.

(3) After August 31, 2000, a teacher who has completed twenty-four quarter credit hours (sixteen semester credit hours) of ((the required special education course work in WAC 180-82-360)) course work applicable to a special education endorsement shall be eligible for a waiver from the special education office which will allow that person to be

employed as a special education teacher. ((The)) All remaining ((credits and all endorsement)) requirements shall be completed within five years of service as a special education teacher. Teachers who hold certificates endorsed in special education or who have received waivers from the special education office prior to September 1, 2000, shall not be affected by the requirements of this subsection.

#### WSR 03-04-024

#### PERMANENT RULES

#### STATE BOARD OF EDUCATION

[Filed January 27, 2003, 2:41 p.m.]

Date of Adoption: January 17, 2003.

Purpose: WAC 180-79A-535, amends the rule to allow an individual contracted as a teacher in a state agency providing educational services for students to enroll in a professional certificate program.

Citation of Existing Rules Affected by this Order: Amending X [WAC 180-79A-535].

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 02-24-080 on December 4, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

**WAC 180-78A-535 Approval standard—Program design.** The following requirements shall govern the design of the professional certificate program:

(1) **Teacher.**

(a) To be eligible to apply for admission to a professional certificate program, a candidate shall hold a contract as a teacher in a public or a state board of education approved private school or state agency providing educational services for students and shall have completed provisional status with a school district under RCW 28A.405.220 or the equivalent with an approved private school or state agency providing

educational services for students: Provided, That a candidate for the professional teacher's certificate may enroll in and complete the preassessment seminar described in subsection (4)(a) of this section prior to admission to a professional certificate program.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the set of common performance indicators as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar which considers input from the candidate's "professional growth team" (WAC 180-78A-505), the candidate's past experience, the context in which he/she teaches, information from past annual evaluations if the individual chooses, the candidate's personal and professional goals, his/her self-evaluation, and evidences of the candidate's impact on student learning.

The seminar will culminate in preparation and approval of the candidate's individual professional growth plan designed to provide the candidate with the knowledge and skills needed to demonstrate successfully the standards and criteria required by WAC 180-78A-540.

A representative of the college/university and the candidate shall develop the professional growth plan to be reviewed and agreed upon after input from and consultation and "collaboration" (WAC 180-78A-010(9)) with his/her "professional growth team" (WAC 180-78A-010(10)).

The individual professional growth plan shall be based on:

(A) An analysis of the instructional context and teaching assignment(s) to determine strategies which the teacher should use to achieve a positive impact on student learning.

(B) An assessment of the candidate's ability to demonstrate successfully the professional certificate standards and criteria.

(C) Specifications of assistance and instructional components needed and any required course work.

(ii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "effective teaching" as defined in WAC 180-78A-540(1).

(iii) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required statewide as essential to "professional development" as defined in WAC 180-78A-540(2).

(iv) Course work, past and current experience, inservice, continuing education and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill and performance on all criteria required

statewide as essential to "leadership" as defined in WAC 180-78A-540(3).

(v) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; identification of future goals and professional/career interests; and specification of areas for continuing education and development. The candidate must provide multiple forms of evidence which shall include, but are not limited to, the set of common performance indicators as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without prior state board approval.

(vi) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for appropriate assistance and instruction.

(vii) No limits shall be placed on the number of times a candidate with a valid residency certificate may participate in the culminating seminar.

## (2) Principal/program administrator.

(a) To be eligible to apply for admission to a professional certificate program, a candidate shall hold a contract as an administrator for which the credential is required in a public school or state board of education approved private school.

(b) The professional certificate program must be available to all qualified candidates.

(c) Using the six knowledge and skills standards, and the standards-based benchmarks as approved by the state board of education and published by the office of the superintendent of public instruction, which may not be changed without state board approval, the professional certificate program shall be developed by a college or university and its professional education advisory board. Additional agencies may participate in the development of the program if the college or university and professional education advisory board so choose.

(d) Each program shall consist of:

(i) A preassessment seminar during which the professional growth plan shall be developed. The plan will be agreed upon after input from and consultation with his/her professional growth team (WAC 180-78A-010 (10)(b)). The individual professional growth plan shall be based on an assessment of the candidate's ability to demonstrate six standards at the professional certificate benchmark level (WAC 180-78A-270 (2)(b)), performance evaluation data, and an analysis of the administrative context and assignment.

(ii) Formalized learning opportunities, past and current experience, professional development opportunities, and other activities directed at developing and verifying that the candidate has achieved acceptable knowledge, skill, and performance at the professional certificate benchmark level, or above, on all standards as defined in WAC 180-78A-270 (2)(b).

(iii) A culminating seminar in which the candidate presents his/her final documentation and evidence of professional certificate level knowledge, skill and performance; positive impact on student learning; development of a profes-

sional growth plan that includes the identification of future goals and professional/career interests as well as a five-year plan for professional development designed to meet the requirements for certificate renewal.

(e) Candidates who do not successfully complete a culminating seminar shall receive an individualized analysis of strengths and weaknesses and a plan for assistance.

(f) No limit shall be placed on the number of times a candidate with a valid residency certificate may enroll in the culminating seminar.

**WSR 03-04-025  
PERMANENT RULES  
STATE BOARD OF EDUCATION**

[Filed January 27, 2003, 2:43 p.m.]

Date of Adoption: January 17, 2003.

Purpose: WAC 180-78A-505, (a) to allow an individual teaching in a state agency to be eligible for admission to a professional certificate program; (b) removes the requirement that an individual has to complete provisional status employment to be eligible for a professional certificate; and (c) requires a candidate for the professional certificate to complete provisional status employment prior to admission to a professional certificate program.

Citation of Existing Rules Affected by this Order:  
Amending X [WAC 180-78A-505].

Statutory Authority for Adoption: RCW 28A.410.010.

Adopted under notice filed as WSR 02-24-044 on December 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 02-18-037, filed 8/26/02, effective 9/26/02)

**WAC 180-78A-505 Overview—Teacher professional certificate program.** By September 1, 2001, all colleges and universities offering a professional certificate program must be in compliance with the new program standards. To obtain

a professional certificate, the residency teacher will need to complete ((~~provisional status with a school district under RCW 28A.405.220 or the equivalent with an approved private school and will need to complete~~)) a state board of education approved professional certificate program collaboratively developed by a college/university and the professional educational advisory board (PEAB). ((~~The candidate shall complete provisional status, with a school district under RCW 28A.405.220 or the equivalent with an approved private school, prior to admission to a professional certificate program, excluding the preassessment seminar.~~)) The candidate shall complete provisional status, with a school district under RCW 28A.405.220 or the equivalent with an approved private school or state agency providing educational services for students, prior to admission to a professional certificate program, excluding the preassessment seminar.

The professional certificate requires successful demonstration of three standards (effective teaching, professional development, and leadership) and ((~~17~~)) 17 criteria, pursuant to WAC 180-78A-540, related to these standards. Wherever appropriate, the residency teacher will need to provide evidence that his/her teaching has had a positive impact on student learning as defined in WAC 180-78A-010(8).

The candidate and college or university shall develop an individual professional growth plan to be reviewed and agreed upon after input from and consultation and collaboration (WAC 180-78A-010(9)) with his/her professional growth team.

The individual professional growth plan will be based on an analysis of the student/learning context in that teacher's assignment and a preassessment of that teacher's ability to demonstrate the standards and criteria set forth in WAC 180-78A-540.

The individual professional growth plan shall include instruction and assistance components for each residency teacher. The instruction and assistance components will be designed to give the residency teacher the necessary knowledge and skills needed to demonstrate successfully the standards and criteria set forth in WAC 180-78A-540.

The final component of the program will be a culminating assessment seminar in which the residency teacher's ability to demonstrate the standards and criteria cited above will be evaluated. These assessments shall include multiple forms of data collected over time, including evidence of positive impact on student learning, where appropriate.

As part of the program development, the college/university and the PEAB shall establish criteria and procedures for determining when the residency teacher has successfully completed the program. When the program administrator has verified to the superintendent of public instruction that the candidate has completed the approved program, the state will issue the residency teacher a professional certificate.

**WSR 03-04-026**  
**PERMANENT RULES**  
**STATE BOARD OF EDUCATION**  
[Filed January 27, 2003, 2:45 p.m.]

Date of Adoption: January 17, 2003.

Purpose: To establish a first people's language certification pilot program by adding a new section, WAC 180-78A-700.

Statutory Authority for Adoption: RCW 28A.305.130 and 28A.410.010.

Adopted under notice filed as WSR 02-24-047 on December 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 1, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003

Larry Davis  
Executive Director

## NEW SECTION

**WAC 180-78A-700 First peoples' language/culture certification pilot program—Findings, purposes and intent—Definitions—Pilot program established—Tribal eligibility to participate—Pilot program requirements—Assignment of teachers—Reports.** (1) **FINDINGS.** The state board of education endorses the following:

(a) Teaching first peoples' languages can be a critical factor in successful educational experiences and promoting cultural sensitivity for all students. The effect is particularly strong for native American students;

(b) First peoples' languages are falling silent. Despite tribal efforts, first peoples' languages are not fully incorporated into the school systems. This is a loss to the cultural heritage of the affected tribes and to the cultural resources of Washington state;

(c) Recognition of native American languages under RCW 28A.230.090(3) and 28B.80.350(2), as satisfying state or local graduation requirements and minimum college admission requirements, while concentrating on promoting a positive impact on student learning through state policies, is insufficient to meet the educational needs of native American students;

(d) The potential to have a positive impact on student learning is in part dependent on the willingness of the local

education agency to collaborate with the sovereign tribal government's language/culture program;

(e) It is within the statutory authority of the state board of education to enhance the learning opportunities for all students by helping prevent the loss of first peoples' languages through assisting the state's sovereign neighbors to sustain, maintain or recover their linguistic heritage, history and culture;

(f) From the Multi-Ethnic Think Tank position statement, June 2001:

(i) "...A culturally inclusive pedagogy will ensure the success of all students, who will develop greater appreciation of other cultures and worldviews;"

(ii) "All students have prior experiences that frame their worldview; learn from childbirth and are lifelong learners; can academically achieve at high levels when they are appropriately taught; and are entitled to learn in a multicultural context;"

(g) Research has shown that students who study another language may benefit in the following ways: Greater academic success in other areas of study, including reading, social studies, and mathematics; a clearer understanding of the English language including function, vocabulary and syntax; and an increase on standardized test scores, especially in verbal areas;

(h) From the Native American Languages Act, Public Law 101-477, Section 102, 1990:

(i) "The traditional languages of Native Americans are an integral part of their cultures and identities and form the basic medium for the transmission, and thus survival, of Native American cultures, literatures, histories, religions, political institutions, and values;"

(ii) "Languages are the means of communication for the full range of human experiences and are critical to the survival of cultural and political integrity of any people"; and

(i) There are many sovereign tribal nations in the state of Washington and they serve the needs of many groups of first peoples, each possessing unique languages, cultures and worldviews.

(2) **PURPOSES.** The purpose of this section is to establish a pilot program to accomplish the following goals:

(a) To honor the sovereign status of tribal governments in their sole expertise in the transmission of their indigenous languages, heritage, cultural knowledge, customs, traditions and best practices for the training of first peoples' language/culture teachers;

(b) Contribute to a positive impact on student learning by promoting continuous improvement of student achievement of the sovereign tribal government's language/culture learning goals, as established by each sovereign tribal government's language/culture program, and by supporting the goals for multi-cultural education included in the 2001 position statement developed by the Washington state Multi-Ethnic Think Tank;

(c) Contribute to the preservation, recovery, revitalization, and promotion of first peoples' languages and cultures;

(d) Meaningfully acknowledge that language is inherently integral to native American culture and ways of life;

(e) Implement in a tangible way the spirit of the 1989 Centennial Accord between Washington state and the sovereign tribal governments in the state of Washington.

(f) Provide a mechanism for the state board of education to recognize tribally qualified language/culture teachers as eligible to receive a Washington state first peoples' language/culture teaching certificate; and

(g) Provide the opportunity for native American students to learn first peoples' languages and cultures while at school and provide another avenue for students to learn core curricula through first peoples' worldviews.

**(3) INTENT.** It is the intent of the state board of education to work in collaboration with the sovereign tribal governments of Washington state to establish a Washington state first peoples' language/culture teacher certification program on a pilot basis in order to:

(a) Act in a manner consistent with the policy as specified in the Native American Languages Act, P.L. 101-477 Sec. 104(1) "preserve, protect, and promote the rights and freedom of Native Americans to use, practice, and develop Native American languages";

(b) Act in a manner consistent with Washington state's government-to-government relationship with Washington state sovereign tribal governments and use the Washington state first peoples' language/culture certification pilot programs to model effective government-to-government relationships;

(c) Act in a manner consistent with the goal of the state Basic Education Act under RCW 28A.150.210;

(d) Act in a manner consistent with the following purposes of Public Law 107-110, "No Child Left Behind Act":

(i) "Holding schools, local education agencies, and States accountable for improving the academic achievement of all students, and identifying and turning around low-performing schools that have failed to provide a high-quality education to their students, while providing alternatives to students in such schools to enable the students to receive a high-quality education," [Sec. 1002(4)];

(ii) "Providing children an enriched and accelerated educational program, including the use of schoolwide programs or additional services that increase the amount and quality of instructional time," [Sec. 1002(8)];

(iii) "Promoting schoolwide reform and ensuring the access of children to effective, scientifically based instructional strategies and challenging academic content," [Sec. 1002(9)];

(iv) "...Supporting local education agencies, Indian tribes, organizations, postsecondary institutions and other entities to meet the unique education, culturally related academic needs of American Indian and Alaskan Native Students" [Sec. 7102(a)];

(e) Act on its involvement with and adoption of the 1991 joint policy statement on Indian education:

"K-12 American Indian dropout prevention is a priority of schools. Effective education needs to be implemented throughout the K-12 school system if the American Indian student is to achieve academic and personal success";

(f) Acknowledge that there is a public responsibility to make available to all students in the state of Washington an

accurate and balanced study of the American Indian experiences with and contributions to life on this continent;

(g) Act on the following state board beliefs:

(i) In order to meet the needs of all students, highly qualified teachers are required;

(ii) All state board of education policies and activities should meet the needs of the state's diverse student population;

(iii) In order for all students to achieve at high levels, multiple learning styles and needs must be supported; and

(h) Act on the following goals from the state board's 2002-05 work plan:

(i) Professional education and certification requirements are aligned with education reform and support a positive impact on student learning;

(ii) All students shall be provided equitable educational opportunities.

#### **(4) DEFINITIONS.**

(a) "Positive impact on student learning" shall mean:

(i) The same as under WAC 180-78A-010(8) and 180-16-220 (2)(b); and

(ii)(A) Supporting the goal of basic education under RCW 28A.150.210, "...to provide students with the opportunity to become responsible citizens, to contribute to their own economic well-being and to that of their families and communities, and to enjoy productive and satisfying lives...";

(B) Promoting continuous improvement of student achievement of the state learning goals and the sovereign tribal government's language/culture learning goals as established by each sovereign tribal government's language/culture program;

(C) Recognizing nonacademic student learning and growth related, but not limited, to: Oral traditions, community involvement, leadership, interpersonal relationship skills, teamwork, self-confidence, resiliency, and strengthened unique cultural identities;

(iii) Developing greater appreciation of other cultures and worldviews;

(b) A "culturally sensitive environment" honors the unique history, culture, values, learning styles, and community of the student. For example, to demonstrate the value of the language and culture, the homeroom teacher participates in the language/culture classroom. A "culturally sensitive environment" also includes those provisions as outlined in the Washington state joint policy on equity in education, revised in May 2000.

(c) For the purpose of this section, "highly qualified teachers" shall mean those teachers who meet the standards of the sovereign tribal government's language/culture program.

**(5) PILOT PROGRAM ESTABLISHED.** A Washington state first peoples' language/culture teacher certification program is established in February 2003 and will continue through the 2005-06 school year. At the end of the 2005-06 school year, the program will be extended, modified or made permanent, as determined by the state board of education in consultation with participating sovereign tribal governments.

**(6) TRIBAL ELIGIBILITY TO PARTICIPATE.** Any sovereign tribal government in the state of Washington shall be eli-

gible to participate individually on a government-to-government basis in the pilot program.

**(7) PROJECT REQUIREMENTS.**

(a) Each sovereign tribal government will appoint and certify individuals who meet the tribe's criteria for certification as instructors in the Washington state first peoples' language/culture pilot program.

(b) Each sovereign tribal government's language/culture project shall submit to the state board of education the following information for each eligible language/culture teacher desiring to participate in the pilot project:

(i) Written documentation that each designated teacher has completed the sovereign tribal government's language/culture teacher certification program;

(ii) Written documentation that each designated teacher has completed the background check required under RCW 28A.410.010 and WAC 180-79A-150 (1) and (2);

(iii) Written documentation that each designated teacher has completed a course on issues of abuse as required by RCW 28A.410.035 and WAC 180-79A-030(6);

(iv) Designation of which language(s), or dialects thereof, shall be listed on the Washington state first peoples' language/culture certificate;

(c) After meeting the requirements of subsection (8)(b) of this section and receiving state board of education approval, the office of the superintendent of public instruction shall issue each teacher a Washington state first peoples' language/culture teaching certificate;

(d) To support a positive impact on student learning, the local education agency in consultation with the sovereign tribal government's language/culture program is strongly encouraged to provide:

(i) A minimum of one contact hour per day, five days a week;

(ii) Access to the same students from year to year, to the extent possible, so that students who receive instruction during the first year of the project can continue to receive instruction throughout the three years of the project;

(iii) A culturally sensitive environment as defined in subsection (4)(b) of this section; or

(iv) Some combination of (d)(i), (ii), and (iii) of this subsection which will allow a positive impact on student learning;

(e) To support a positive impact on student learning, the sovereign tribal government's language/culture program will provide written documentation of how teaching the first peoples' language/culture has supported the promotion of continuous improvement of student achievement of the program learning goals as established by each sovereign tribal government's language/culture program;

(f) To support a greater understanding of the government-to-government relationship, the professional development and certification committee of the state board of education and the professional educator standards board are strongly encouraged to make site visits and attend meetings with the local education agency and the sovereign tribal government's language/culture program;

(g) Nothing in this section shall be interpreted as precluding any eligible tribe in consultation with the state or in

consultation with any local education agency from entering into an inter-governmental agreement or compact related to the teaching of first peoples' languages and cultures in order to address unique issues related to individual sovereign tribal governments.

**(8) ASSIGNMENT OF TEACHERS.**

(a) The holder of a Washington state first peoples' language/culture teacher certificate shall be deemed qualified to be a teacher of first peoples' language/culture with the ability to meet individual tribal competency criteria for language/culture, history, and English.

(b) A Washington state first peoples' language/culture teacher certificate qualifies the holder to accept a teaching position in a public school district.

(c) The holder of a Washington state first peoples' language/culture teacher certificate who does not also hold an initial or residency certificate shall be assigned to teach only the language(s)/culture(s) designated on the certificate, and no other subject.

(d) The Washington state first peoples' language/culture teacher certificate is recognized by the state of Washington for as long as the teacher holds a valid language/culture certificate from a participating sovereign tribal government.

(e) A Washington state first peoples' language/culture teacher certificate will serve as the endorsement in first peoples' language/culture for anyone holding an initial or residency certificate.

**(9) REPORTS.**

(a) Annually, for the duration of the pilot program, each participating tribe shall submit a report to the state board of education with documentation of how its particular project is having a positive impact on student learning.

(b) Not later than October 31, 2006, the professional development and certification committee of the state board of education, in consultation with the participating sovereign tribal governments and the professional educator standards board, shall create and submit a report to the state board of education with the following information:

(i) An end of program analysis of the positive impact on student learning of each pilot project;

(ii) An appraisal of the government-to-government relationships established under the program, at both the state and local levels; and

(iii) The report shall include a recommendation on whether to extend, modify or make permanent the Washington state first peoples' language/culture teacher certification pilot program.

**Reviser's note:** The brackets and enclosed material in the text of the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

Purpose: The proposed rule will promote public health by improving the quality of life of persons afflicted with multiple sclerosis (MS) by allowing health care practitioners to prescribe, administer, and dispense Schedule II nonnarcotic stimulants for the purpose of treating fatigue in patients with MS.

Citation of Existing Rules Affected by this Order:  
Amending chapter 246-887 WAC.

Statutory Authority for Adoption: RCW 69.50.402.

Other Authority: RCW 18.64.005(7).

Adopted under notice filed as WSR 02-24-078 on December 4, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 1, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 15, 2003  
Donna Dockter  
Chair

## NEW SECTION

**WAC 246-887-045 Prescribing, dispensing, or administering of Schedule II nonnarcotic stimulants.** The Schedule II stimulants listed in WAC 246-887-040 may be prescribed, dispensed, or administered to patients for the following disease states or conditions:

(1) Disease states or conditions listed in RCW 69.50.402 (3)(ii);

(2) Multiple sclerosis.

## **WSR 03-04-053**

### **PERMANENT RULES**

### **STATE BOARD OF EDUCATION**

[Filed January 29, 2003, 2:00 p.m.]

Date of Adoption: January 17, 2003.

Purpose: To clarify the employment of non-Washington state certificated teachers in approved private schools and the procedures for loss of private school approval. In addition, the revisions reflect minor changes consistent with recent State Board of Education rule changes and sequence of similar or related concepts.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 180-90-110, 180-90-115, 180-90-119, 180-

90-120, 180-90-123, 180-90-125, 180-90-133, 180-90-135 and 180-90-137; and amending WAC 180-90-105, 180-90-112, 180-90-130, 180-90-141, and 180-90-160.

Statutory Authority for Adoption: RCW 28A.195.040.

Adopted under notice filed as WSR 02-24-049 on December 3, 2002.

Changes Other than Editing from Proposed to Adopted Version: PROPOSED AMENDMENT: On page 143, (OTS-5551.2 - WAC 180-90-112), line 7 of subsection (5)(a)(iii), after "and" strike "vocational" and insert: "career and technical".

EFFECT/RATIONALE: Technical update of language.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 5, Repealed 7.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 5, Repealed 7.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 5, Repealed 7; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003  
Larry Davis  
Executive Director

## AMENDATORY SECTION (Amending WSR 90-17-009, filed 8/6/90, effective 9/6/90)

**WAC 180-90-105 Purpose and authority.** (1) The purpose of this chapter is to establish the procedures and conditions governing the approval of private schools by the state board of education and rescission of such approval.

(2) The authority for this chapter is RCW 28A.195.040 which authorizes the state board of education to promulgate rules and regulations for the approval of private schools for the purpose of implementing RCW 28A.225.010.

## AMENDATORY SECTION (Amending Order 23-85, filed 12/2/85)

**WAC 180-90-112 Definitions**((—Approved private school)). ((As used in this chapter the term "approved private school" shall mean a private school)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Approved private school" means a nonpublic school or nonpublic school district conducting a program consisting of kindergarten and at least grade one, or a program consisting of any or all of grades one through twelve which has been approved by the state board of education in accordance with

PERMANENT

the minimum standards for approval as prescribed in this chapter.

(2)(a) "Reasonable health requirements" means those standards contained in chapter 248-64 WAC as adopted by the state board of health.

(b) "Reasonable fire safety requirements" means those standards adopted by the state fire marshal pursuant to chapter 48.48 RCW.

(3)(a) "Minor deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel, and which does not raise a question as to the ability of the school to provide an educational program which is in substantial compliance with the minimum standards set forth in WAC 180-90-160, and which, therefore, does not preclude the granting of full approval.

(b) "Major deviation" means a variance from the standards established by these regulations which represents little or no threat to the health or safety of students and school personnel but raises a question as to the ability of the school to provide an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160, but is not so serious as to constitute an unacceptable deviation.

(c) "Unacceptable deviation" means a variance from the standards established by these regulations which either:

(i) Constitutes a serious, imminent threat to the health or safety of students or school personnel; or

(ii) Demonstrates that the school is not capable of providing an educational program which substantially complies with the minimum standards set forth in WAC 180-90-160.

(4) "Total instructional hour offering" means those hours when students are provided the opportunity to engage in educational activity planned by and under the direction of school staff, as directed by the administration and board of directors, inclusive of intermissions for class changes, recess and teacher/parent-guardian conferences which are planned and scheduled by the approved private school for the purpose of discussing students' educational needs for progress, and exclusive of time actually spent for meals.

(5)(a) "Non-Washington state certified teacher" means a person who has:

(i) A K-12 teaching certificate from a nationally accredited preparation program, other than Washington state, recognized by the U.S. Department of Education; or

(ii) A minimum of forty-five quarter credits beyond the baccalaureate degree with a minimum of forty-five quarter credits in courses in the subject matter to be taught or in courses closely related to the subject matter to be taught; or

(iii) A minimum of three calendar years of experience in a specialized field. For purposes of this subsection the term "specialized field" means a specialized area of the curriculum where skill or talent is applied and where entry into an occupation in such field generally does not require a baccalaureate degree, including, but not limited to, the fields of art, drama, dance, music, physical education, and career and technical or occupational education.

(b) "Exceptional case" means that a circumstance exists within a private school in which:

(i) The educational program offered by the private school will be significantly improved with the employment of a non-Washington state certificated teacher. Each teacher not holding a valid Washington state certificate shall have experience or academic preparation appropriate to K-12 instruction and consistent with the school's mission. Such experience or academic preparation shall be consistent with the provisions of (c) of this subsection; and

(ii) The school which employs a non-Washington state certificated teacher or teachers pursuant to this subsection employs at least one person certified pursuant to rules of the state board of education and (c) of this subsection to every twenty-five FTE students enrolled in grades kindergarten through twelve. The school will report the academic preparations and experience of each teacher providing K-12 instruction; and

(iii) The non-Washington state certificated teacher of the private school, employed pursuant to this section and as verified by the private school, meets the age, good moral character, and personal fitness requirements of WAC 180-79A-150 (1) and (2), has not had his or her teacher's certificate revoked by any state or foreign country. (WAC 180-79A-155 (5)(a))

(c) "Unusual competence": As applied to an exceptional case wherein the educational program as specified in RCW 28A.195.010 and WAC 180-90-160(7) will be significantly improved with the employment of a non-Washington state certificated teacher as defined in (a) of this subsection.

(d) "General supervision" means that a Washington state certificated teacher or administrator shall be generally available at the school site to observe and advise the teacher employed under provision of (c) of this subsection and shall evaluate pursuant to policies of the private school.

#### AMENDATORY SECTION (Amending Order 23-85, filed 12/2/85)

**WAC 180-90-130 Approval—Annual certification—Adverse findings.** (1) At least ninety days prior to the commencement of the annual school term or period, the chief administrator of each private school shall file with the superintendent of public instruction, in accordance with procedures established by the superintendent of public instruction, a certificate of compliance in the form and substance set forth in WAC 180-90-160.

(2) The superintendent of public instruction shall review each certificate. The review shall be completed within thirty days after receipt of a completed application.

(3) If the superintendent of public instruction finds no minor, major, or unacceptable deviations, the superintendent of public instruction shall so notify the private school and shall recommend full approval of the private school to the state board of education.

(4) If the superintendent of public instruction finds deviation, the private school shall be notified in writing of any minor, major, or unacceptable deviations.

(5) If the superintendent of public instruction finds minor, major, or unacceptable deviations, the superintendent of public instruction shall not transmit the recommendation regarding approval status to the state board of education until the private school submits a narrative report indicating agree-

ment or not with the findings of the superintendent of public instruction and any proposed remedial action to address the reported deviations. Upon receipt of the narrative report, the superintendent of public instruction shall transmit the recommendation and the narrative report to the state board of education.

AMENDATORY SECTION (Amending Order 7-87, filed 4/14/87)

**WAC 180-90-141 Loss of private school approval ((of a nonoperating private school)).** ((An approved private school which does not have students enrolled for any six consecutive calendar months and which fails to provide evidence of student enrollment upon request of the superintendent of public instruction for the said period of time shall lose its approval status for the remainder of the school year.)) (1) The superintendent of public instruction is authorized to rescind approval of a private school for one or more of the following reasons:

(a) Failure to have students enrolled for any six consecutive calendar months or failure to provide evidence of student enrollment upon request of the superintendent of public instruction for the said period of time.

(b) Failure to provide verification that the approved private school teaching staff meet the provision of WAC 180-90-112 (5)(b)(ii).

(c) Failure to provide verification that the physical facilities of the school meet the health and fire safety standards.

(2) The superintendent of public instruction shall notify the state board of education of decisions to rescind approval.

AMENDATORY SECTION (Amending WSR 96-15-099, filed 7/22/96, effective 8/22/96)

**WAC 180-90-160 Minimum standards and certificate form.** The annual certificate required by WAC 180-90-130 shall be in substantial compliance with the form and substance of the following:

CERTIFICATE OF COMPLIANCE  
WITH STATE STANDARDS

ESD/County/Public  
School District  
Private School/  
District Address

I, . . . . . , do hereby certify that I am the principal or chief administrator of the above named school; that said school is located at the address listed above, and conducts grades . . . . . through . . . . . with a projected enrollment of . . . . . ; and that said school is scheduled to meet throughout the . . . . . school year, the following standards with the exception only of such deviations, if any, as are set forth in an attachment to this certificate of compliance

or

I, . . . . . , do hereby certify that I am the superintendent of the above named private school district; and that the private schools under my jurisdiction are scheduled to meet throughout the school year, the following standards with the exception only of such deviations as are set forth in an attachment to this certificate of compliance; and that a list of such schools, including the grades conducted and the projected enrollment for each school, accompanies this certificate:

Following initial approval as a private school by the state board of education, evidence of current accreditation by a state board of education approved accrediting body may be submitted annually in lieu of approval documents described in 1-12.

(1) The minimum school year for instructional purposes consists of no less than 180 school days or the equivalent in annual minimum ((program)) instructional hour offerings as prescribed in RCW 28A.150.220.

(2) On each school day, pupils enrolled in the school are provided the opportunity to be engaged in educational activity planned by and under the direction of the staff, as directed by the administration and/or governing board; and that pupils are provided a total ((program)) instructional hour offering as prescribed in RCW 28A.150.220 except that the percentages for basic skills, work skills, and optional subjects and activities prescribed in RCW 28A.150.220 do not apply to private schools and that the total ((program)) instructional hour offering, except as otherwise specifically provided in RCW 28A.150.220, made available is at least:

(a) 450 hours for students in kindergarten.

(b) ((2700 hours for students in grades one through three.

(c) 2970 hours for students in grades four through six.

(d) 1980 hours for students in grades seven and eight.

(e) 4320)) 1000 hours for students in grades ((nine)) one through twelve.

(3) All classroom teachers hold appropriate Washington State certification except for:

(a) Teachers for religious courses or courses for which no counterpart exists in the public schools: Provided, That a religious course is a course of study separate from the courses of study defined in RCW 28A.195.010 including occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of the appreciation of art and music all in sufficient units for meeting state board of education graduation requirements; and/or

(b) A person of unusual competence who is not certified but who will teach students in an exceptional case under the general supervision of a ((certified)) Washington state certificated teacher or administrator pursuant to WAC ((180-90-125)) 180-90-112. The ((nonecertified employee)) non-Washington state certificated teacher, the ((certified)) Washington state certificated person who will supervise, and the exceptional circumstances are listed on the addendum to this certificate: Provided, That if a ((nonecertified person)) non-Washington state certificated teacher is employed subsequent to the filing of this certificate, this same information shall be forwarded to the superintendent of public instruction within thirty days from the date of employment.

(4) If the school operates an extension program for parents, guardians, or persons having legal custody of a child to teach children in their custody, the extension program meets the following requirements:

(a) The parent, guardian, or custodian is supervised by a person certified under chapter 28A.410 RCW and who is employed by the school;

(b) The planning by the certified person and the parent, guardian, or person having legal custody includes objectives consistent with this subsection and subsections (1), (2), (5), (6), and (7) of this section;

(c) The certified person spends a minimum average each month of one contact hour per week with each student under his or her supervision who is enrolled in the extension program;

(d) Each student's progress is evaluated by the certified person; and

(e) The certified person does not supervise more than thirty students enrolled in the approved private school's extension program.

(5) Measures have been taken to safeguard all permanent records against loss or damage through either the storage of such records in fire-resistant containers or facilities, or the retention of duplicates in a separate and distinct area;

(6) The physical facilities of the school are adequate to meet the program offered, and all school facilities and practices are in substantial compliance with reasonable health and fire safety standards, as substantiated by current inspection reports of appropriate health and fire safety officials which are on file in the chief administrator's office;

(7) The school's curriculum includes instruction in the basic skills of occupational education, science, mathematics, language, social studies, history, health, reading, writing, spelling, and the development of appreciation of art and music in sufficient units for meeting state board of education graduation requirements, as set forth in chapter 180-51 WAC;

(8) The school or its organized district maintains up-to-date policy statements related to the administration and operation of the school or district;

(9) The school does not engage in a policy of racial segregation or discrimination;

(10) The governing authority of this private school or private school district has been apprised of the requirements of chapter 180-90 WAC relating to the minimum requirements for approval of private schools and such governing authority has further been apprised of all deviations from the rules and regulations of the state board of education and the standards contained in chapter 180-90 WAC. I have reported all such deviations herewith.

(11) Approval by the state board of education is contingent upon on-going compliance with the standards certified herein. The superintendent of public instruction shall be notified of any deviation from these standards which occurs after the action taken by the state board of education. Such notification shall be filed within thirty days of occurrence of the deviation.

(12) Failure to comply with the requirements of this chapter may result in the revocation of the approval of the

private school and shall be considered in subsequent application for approval as a private school.

Dated this . . . . day of . . . . , 19 . . .

.....  
(signed)

.....  
(title)

.....  
(phone number)

#### REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 180-90-110	Purpose.
WAC 180-90-115	Definition—Private school.
WAC 180-90-119	Definition—Reasonable health and fire safety requirements.
WAC 180-90-120	Definitions—Deviations.
WAC 180-90-123	Definition—Total program hour offering.
WAC 180-90-125	Definitions—Exceptional case, unusual competence, and general supervision.
WAC 180-90-133	SPI report to SBE—No adverse findings.
WAC 180-90-135	SPI adverse findings—Report to private school.
WAC 180-90-137	SPI report to SBE—Adverse findings.

#### WSR 03-04-054 PERMANENT RULES STATE BOARD OF EDUCATION

[Filed January 29, 2003, 2:03 p.m.]

Date of Adoption: January 17, 2003.

Purpose: To shift focus of the WAC language from work experience for credit to work based learning for credit.

Citation of Existing Rules Affected by this Order:  
Amending WAC 180-50-315.

Statutory Authority for Adoption: RCW 28A.305.130 (8), (9), and 28A.230.100.

Adopted under notice filed as WSR 02-24-048 on December 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003

Larry Davis  
Executive Director

**AMENDATORY SECTION** (Amending WSR 00-19-106, filed 9/20/00, effective 10/21/00)

**WAC 180-50-315 Equivalency course of study—**

**Credit for work ((experience)) based learning.** School districts may accept work ((experience training)) based learning in lieu of either required or elective high school credits if such work ((experience training)) based learning meets the ((following)) standards((::)) under subsections (1) through (5) of this section. Schools and school districts are strongly encouraged to review the nonbinding work based learning guidelines on the website of the superintendent of public instruction in their consideration of making this credit option available to students.

(1) **Definitions:**

(a) "Work based learning" means a learning experience that connects knowledge and skills obtained in the classroom to those needed outside the classroom, and comprises a range of activities and instructional strategies designed to assist students in developing or fulfilling their education plans.

(b) "Work based learning agreement" means a contract that specifies the terms and conditions under which the work based learning experience shall occur. It is agreed to and signed by the school district, worksite supervisor, student, and the student's parents/guardians.

(c) "Worksite supervisor" means an adult employee or volunteer of the worksite responsible for overseeing the work based learning experience and acting as liaison between the worksite and school district.

(d) "Orientation" means a meeting conducted by a work based learning coordinator giving information to a worksite supervisor about the work based learning program of the school. The orientation clarifies program objectives, establishes support systems, and delineates the responsibilities and rights of the various parties—school/district, worksite, students, and parents/guardians.

(e) "New employee orientation" means an orientation program for the student facilitated by a worksite supervisor or designee (e.g., human resources) that identifies worksite safety procedures and practices, workers' rights and responsibilities, issues related to harassment, and employer policies, procedures and expectations. The orientation shall also

include a description of the formal accident prevention program of the worksite.

(f) "Instructional work based learning" means a work based learning experience in which no appreciable benefit is rendered to the worksite by the presence of the minor student, in accordance with WAC 296-125-043.

(g) "Cooperative work based learning" means a work based learning experience in which an employer/employee relationship exists—the work performed by the student results in a net increase in productivity or profitability for the business or organization.

(2) The work based learning experience ((training)) shall be ((supervised by the school;

(2) The work experience training shall be related to the school program of the student;

(3) Credit given for work experience training shall represent growth in the student and the type of work done, shall involve one or more of the state learning goals and related essential academic learning requirements, and shall be awarded in accord with WAC 180-51-050(1);

(4) A work experience training program shall be supplemented by an adequate program of guidance, placement, follow-up, and coordination between job and school;

(5) Work experience as a planned part of a school subject may be included in the credit given for that subject;

(6) One credit may be granted for not less than four hundred five hours of work experience training related to a student's school program;

(7) A student participating in a work experience training shall be legally employed and shall not be less than sixteen years old;

(8) An employer's report of the student's work record, indicating satisfactory progress on the job, shall be filed with the school; and

(9) The regular state apprenticeship program, in which the training is worked out cooperatively with the school and meets the standards for high school graduation, is acceptable)) connected to the education plan of the student.

(a) The education plan shall involve one or more of the state learning goals and related essential academic learning requirements.

(b) Counseling and guidance services, particularly career guidance, shall be available to students seeking work based learning experience.

(c) The education plan should relate to a specific career and/or educational pathway chosen by the student.

(d) The education plan should extend at least one year beyond high school graduation.

(3) The student shall be placed in a worksite that is appropriate to the previous learning experience and educational goals of the student and shall be formalized through a work based learning agreement and work based learning plan.

(a) The work based learning plan shall articulate the connection between the education plan of the student and the work based learning experience.

(b) The work based learning plan shall articulate clear, measurable learning objectives.

(c) Evaluation of learning progress related to the work based learning plan shall occur during the work based learning experience.

(i) Learning objectives shall be evaluated and updated on a regular basis as outlined in the work based learning agreement.

(ii) Documentation of progress shall be on file in the district as outlined in the work based learning agreement.

(4) The work based learning experience shall be supervised by the school. A work based learning coordinator shall be identified in accordance with WAC 180-77-068 and shall be responsible for:

(a) Aligning the work based learning experience to the education plan of the student;

(b) Identifying and developing work based learning sites, establishing work based learning agreements and work based learning plans, orienting and coordinating with a worksite supervisor on the work based learning site, and assessing and reporting student progress;

(c) Ensuring that a worksite supervisor:

(i) Has received an orientation on the work based learning program of the school prior to placement of the student on the worksite; and

(ii) Has provided the student with a new-employee orientation upon placement; and

(d) Applying legal requirements of the employment of minors in accordance with chapters 296-125 and 296-131 WAC, particularly on issues of occupational health and safety, discrimination, harassment, worker/employer rights and responsibilities, and work rules for minors.

(5) One credit may be granted for no less than one hundred eighty hours for instructional work based learning experience, and not less than three hundred sixty hours of cooperative work based learning experience, or one credit may be granted on a competency basis as provided under WAC 180-51-050 (1)(b).

(a) A student participating in an instructional work based learning experience shall receive instruction supervised by the school.

(i) Instruction shall be provided by an instructor with a teaching certificate, preferably endorsed in the subject area for which credit will be awarded the student for the work based learning experience.

(ii) The work based learning experience shall be an embedded component of the instructional program appropriate to the subject area for which credit will be awarded the student for the work based learning experience.

(b) A student participating in a cooperative work based learning experience shall be legally employed and shall not be less than sixteen years old.

(i) The cooperative work based learning experience shall be supervised either by a work based learning coordinator or an instructor with a teaching certificate, preferably endorsed in the subject area for which credit will be awarded the student for the work based learning experience;

(ii) The cooperative work based learning experience shall be a direct extension of a course related to the work based learning experience and taken either concurrently with the work based learning experience or taken in a school term prior to the work based learning experience.

(6) The superintendent of public instruction shall report biennially at the state board's fall meeting on the use of the work based learning credit option authorized in this section.

## WSR 03-04-055

### PERMANENT RULES

### STATE BOARD OF EDUCATION

[Filed January 29, 2003, 2:05 p.m.]

Date of Adoption: January 17, 2003.

Purpose: To change the state standardized high school transcript to conform with the new state minimum high school graduation requirements.

Citation of Existing Rules Affected by this Order: Amending WAC 180-57-050, 180-57-055, and 180-57-070.

Statutory Authority for Adoption: RCW 28A.305.220.

Adopted under notice filed as WSR 02-24-046 on December 3, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 3, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 3, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 23, 2003

Larry Davis

Executive Director

### AMENDATORY SECTION (Amending WSR 01-24-093, filed 12/4/01, effective 1/4/02)

**WAC 180-57-050 Grade reporting and calculation system.** (1) The standardized high school transcript shall report the marks/grades earned by students in courses as follows((, provided, that there is no requirement)). It is not required to adopt a marking/grading system that uses ((minuses or)) pluses or minuses or, if adopted, to report ((minuses or)) pluses or minuses on standardized transcripts((:)).

(a)	A	=	4.0
(b)	A-	=	3.7
(c)	B+	=	3.3
(d)	B	=	3.0
(e)	B-	=	2.7
(f)	C+	=	2.3

(g) C	=	2.0
(h) C-	=	1.7
(i) D+	=	1.3
(j) D	=	1.0
(k) E or F	=	0.0

(2) The minimal passing mark/grade is D = 1.0. Nonnumerical marks/grades such as pass/fail, pass/no pass, credit/no credit, and satisfactory/unsatisfactory marks also may be used. A mark/grade of "W" shall be used to indicate a withdrawal from a course.

(3) If high school credit is awarded on a competency basis as authorized under state board of education policy WAC 180-51-050(2), the district may use either of the following options for noting the students' performance on the state standardized transcript under state board of education policy WAC 180-57-070:

(a) Determine locally the equivalent passing mark/grade as listed under subsection (1) of this section; or

(b) Designate "pass" or "fail" or "no pass" in the appropriate manner on the transcript.

**AMENDATORY SECTION** (Amending WSR 01-24-093, filed 12/4/01, effective 1/4/02)

#### **WAC 180-57-055 Definition—Grade point average.**

(1) Each student's "grade point average" shall be the sum of the point values, as defined in WAC 180-57-050, of all the marks/grades received for all courses attempted, divided by the sum of the credits for all courses attempted.

(2) The grade point value shall be rounded by multiplying the numerical value of the mark/grade earned by the number of credits assigned to the course.

(3) Grade point averages shall be ((calculated to two)) rounded to the third decimal place((s)) and reported for each trimester/semester or other term and for the cumulative credits earned for all courses attempted in high school.

(4) All marks/grades for all courses taken shall be included in the calculation of grade point averages except for:

(a) Nonnumerical marks/grades shall be excluded from the calculation of grade point averages; and

(b) ((The lowest)) Only the highest mark/grade earned for a class/course taken more than once to improve a mark/grade shall be ((excluded from)) included in the calculation of grade point averages.

This exception shall not apply to recurring courses. Recurring courses are not considered repeated courses taken for the purpose of improving a mark/grade. Recurring courses are those taken by a student to further develop their understanding and skills in the subject (e.g., journalism, advanced art or drama, concert band, etc.), or is taken by the student more than once to satisfy different credit requirements (e.g., advanced drama taken three times to meet an elective requirement, an art requirement, and the occupational education requirement).

(c) Credits attempted for courses taken more than once to improve a grade/mark may count only once toward the number of credits required for graduation.

(d) Credits attempted for courses taken more than once to improve a grade may count toward the number of credits required for graduation on the condition that the letter grades earned for all attempts are included in the calculation of the student's grade point average. Districts and schools shall not convert letter grades to nonnumerical grades/marks for the purpose of this subsection.

**AMENDATORY SECTION** (Amending WSR 01-09-013, filed 4/6/01, effective 5/7/01)

**WAC 180-57-070 Mandatory high school transcript contents—Items.** The standardized high school transcript shall contain only the following information in order to meet the statutory requirement under RCW 28A.305.220 for a statewide standardized transcript. Any other information the district or school may desire to include may be stapled to the transcript or otherwise provided with the transcript. Information that is not listed below shall not be included on the state standardized transcript:

(1) The student's legal name (last name, first name, and middle name(s) or middle initial(s)), and other or former names used;

((2) ((The student's current address, address at graduation, or address at withdrawal from school (street, city, state, zip code);

((3))) The name(s) ((and address)) of parent(s) or guardian(s) ((street, city, state, zip code) if such information is available));

((4))) (3) The student's ((birth date and sex)) birthdate;

((5))) (4) The student's school district identification number (if applicable);

((6))) (5) The school((s)) name, address, phone number, and name of the school district issuing the transcript;

((7)) The school's address (street, city, state, zip code, and telephone number);

((8)) The dates of the student's entry, reentry, withdrawal, and graduation (if applicable) related to the school issuing the transcript;

((9))) (6) A list of previous ((high)) schools attended where credit was attempted (school name, city, state, and month and year of entrance and exit);

((10)) The student's attendance record (total unexcused absences. "Unexcused absence" shall mean the same as defined under RCW 28A.225.020(2)) by year;

((11))) (7) The student's academic history for all high school ((grade)) level ((and date of course completion)) courses attempted, including courses taken under RCW 28A.230.090(4) and including those courses where a student has withdrawn, and listed by major reporting period for the grade level (month and year), course ((titles, including the high school department)) code and ((course number)) description, marks/grades earned as defined in WAC 180-57-050 (a mark/grade of "W" will be used to indicate a withdrawal from a course), credits earned as defined in WAC 180-57-040, credits attempted as defined in WAC 180-57-040, and grade point average as defined in WAC 180-57-055(())). Credits attempted for courses taken more than once to improve a grade/mark may count only once toward the number of credits required for graduation. Credits attempted

for courses taken more than once to improve a grade may count toward the number of credits required for graduation on the condition that the letter grades earned for all attempts are included in the calculation of the student's grade point average. Districts and schools shall not convert letter grades to nonnumerical grades/marks for the purpose of this subsection. The transcript shall include a term and cumulative summary of the student's high school level academic history;

(8) The transcript shall include notation that the high school + education plan requirement was completed (noting month and year) or not completed by the student;

(9) The transcript shall include notation that the culminating project requirement was completed (noting month and year) or not completed by the student;

((12)) (10) The following courses, for which college credit can be earned, shall be designated on the transcript ((as dual credit (d/e) courses)) with the designation coding indicated. Courses completed and credits earned through running start shall be noted with an "RS" designation. Courses completed and credits earned through advanced placement shall be noted with an "AP" designation. Courses completed and credits earned through college in the high school shall be noted with a "CHS" designation. Courses completed and credits earned through an international baccalaureate program shall be noted with an "IB" designation. Courses completed which earn college credit through tech-prep and/or the corresponding credits or certification earned shall be noted with a "TP" designation. Courses that meet or satisfy higher education coordinating board core course requirements shall be noted with a "HC" designation;

((13)) (11)(a) At such time as the state board of education determines that the high school Washington assessments of student learning are sufficiently reliable and valid and that retake opportunities are available, the transcript shall then include notation that the student has met or exceeded (noting the month and year) or not met the standard on each of the required secondary Washington assessments of student learning and/or earned (noting the month and year) or not earned the state certificate of mastery, or that the particular Washington assessment of student learning was waived or not taken;

(b) For purposes of this subsection, "exceeded" shall mean the performance standard on each of the required high school Washington assessments of student learning as determined by the superintendent of public instruction;

(12) Each issuance of the transcript shall include a report date, version number, and page number ('x' of 'y'); and

((14)) (13) The signature ((and/or seal)) of the authorized school official (name, title, and date) and seal of the district, if available.

(14) Subsections (8) and (9) of this section shall take effect for students who begin ninth grade in fall 2004.

[Filed February 4, 2003, 10:37 a.m.]

Date of Adoption: February 1, 2003.

Purpose: Set forth vehicle registration requirements for out-of-state registered vehicles entering Washington for purposes of repair.

Citation of Existing Rules Affected by this Order: Amending 1 [WAC 308-99-040].

Statutory Authority for Adoption: RCW 46.85.060.

Adopted under notice filed as WSR 02-23-068 on November 19, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 1, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

January 17, 2003

Fred Stephens

Director

#### AMENDATORY SECTION (Amending WSR 00-20-064, filed 10/3/00, effective 11/3/00)

**WAC 308-99-040 Restrictions and conditions.** Is a vehicle properly licensed or registered in another jurisdiction able to be operated in Washington without further registration requirements? Yes, as provided in RCW 46.85.060 and 46.85.080 the following conditions and restrictions apply:

(1) Nonresident students: The student must be in full-time attendance at an institution of higher learning in Washington accredited by the Northwest Association of Schools and Colleges or at a private vocational school as that term is defined by RCW 28C.10.020(7) and maintain their legal home of record at a location outside the state of Washington. Students' vehicles must be registered in their name or the name of their parent or legal guardian in the resident state of record. The student must carry, in the vehicle, documentation issued by the institution that readily establishes the nonresident status. Employment incidental to the full-time student status is permitted. The spouse of a nonresident student has the same licensing privilege as long as the vehicle is registered to the student or jointly to the student and spouse, regardless of the spouse's legal residence or employment.

(2) Nonresident military personnel: Vehicles must be currently registered in the name of the military person at

his/her official home of record. A vehicle licensed at the last duty station may be operated until expiration of the registration at which time it must be licensed in the home of record or in Washington. The spouse of a nonresident military person has the same licensing privilege as long as the vehicle is registered to the military person or jointly to the military person and spouse, regardless of the spouse's legal residence or employment.

(3) Borrowed vehicle: A borrowed vehicle currently licensed in another jurisdiction may be operated by a Washington resident for a period not to exceed ten days in any one calendar year. If the period of use exceeds ten days the vehicle must be registered and licensed in Washington. This provision does not apply to business vehicles.

(4) Vehicles undergoing repairs: Commercial vehicles having a gross weight or combined gross weight of over 26,000 pounds and properly registered and licensed in another state or Canadian Province may enter Washington for purposes of repair under the following conditions:

(a) The vehicle must enter the state unladen and proceed immediately to the repair facility.

(b) The vehicle must immediately leave the state, unladen, upon completion of repairs.

(c) The vehicle cannot engage in any commercial activity while in Washington.

(d) The repair facility must be located within fifteen miles of the Washington border.

(e) While in Washington, the vehicle must carry the following documentation:

(i) An "out-of-state vehicle repair statement of fact." Blank forms are available from the department of licensing Internet site at [www.gov.wa.dol](http://www.gov.wa.dol).

(ii) A copy of the vehicle repair work order issued by the repair facility before the vehicle enters Washington.

(f) The repair facility must maintain a copy of the "out-of-state vehicle repair statement of fact" and vehicle repair work order for a period of five years. The repair facility must make the forms available for inspection by state agency representatives.

- Make the rule at-least-as-effective-as OSHA; and
- Make necessary housekeeping changes.

Citation of Existing Rules Affected by this Order: Amending WAC 296-304-01001 Definitions, 296-304-01003 Reference specifications, standards, and codes, 296-304-02007 Hot work, 296-304-02009 Maintenance of safe conditions, 296-304-03007 Painting, 296-304-04001 Ventilation and protection in welding, cutting and heating, 296-304-05001 Scaffolds or staging, 296-304-05003 Ladders, 296-304-05005 Guarding of deck openings and edges, 296-304-05009 Access to and guarding of dry docks and marine railings, 296-304-05013 Working surfaces, 296-304-06003 Illumination, 296-304-07009 Hoisting and hauling equipment, 296-304-07011 Use of gear, 296-304-07013 Qualifications of operators, 296-304-08001 General precautions, 296-304-09017 Lifesaving equipment, 296-304-09021 Personal fall arrest systems, 296-304-09023 Positioning device systems, 296-304-10003 Ship's piping systems, and 296-304-10007 Ship's deck machinery.

Statutory Authority for Adoption: RCW 49.17.010, 49.17.040, 49.17.050, and 49.17.060.

Adopted under notice filed as WSR 02-21-107 on October 22, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 21, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 21, Repealed 0.

Effective Date of Rule: August 1, 2003.

February 4, 2003

Paul Trause  
Director

AMENDATORY SECTION (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-01001 Definitions. "Anchorage"** - A secure point to attach lifelines, lanyards, or deceleration devices.

**"Body belt"** - A strap with means to both secure it around the waist and to attach it to a lanyard, lifeline, or deceleration device. Body belts may be used only in fall restraint or positioning device systems and may not be used for fall arrest. Body belts must be at least one and five-eighths inches (4.13 cm) wide.

**"Body harness"** - Straps to secure around an employee so that fall arrest forces are distributed over at least the thighs,

## WSR 03-04-099

### PERMANENT RULES

### DEPARTMENT OF

### LABOR AND INDUSTRIES

[Filed February 4, 2003, 1:17 p.m., effective August 1, 2003]

Date of Adoption: February 4, 2003.

Purpose: Shipbuilding, ship repairing and shipbreaking, chapter 296-304 WAC. The purpose of this rule making is to make technical and typographical changes to the Washington Industrial Safety and Health Act's (WISHA) shipbuilding, ship repairing and shipbreaking rules (chapter 296-304 WAC) in response to the Occupational Safety and Health Administration's (OSHA) rule on Occupational Safety and Health Standards for Shipyard Employment, 29 C.F.R. Part 1915, which were effective July 3, 2002. These changes are necessary to:

**shoulders, chest and pelvis with means to attach it to other components of a personal fall arrest system.**

**"Cold-work"** - Work that does not involve riveting, welding, burning, or other fire-producing or spark-producing operations.

**"Competent person"** - A person who can recognize and evaluate employee exposure to hazardous substances or to other unsafe conditions and can specify the necessary protection and precautions necessary to ensure the safety of employees as required by these standards.

**"Confined space"** - A small compartment with limited access such as a double bottom tank, cofferdam, or other small, confined space that can readily create or aggravate a hazardous exposure.

**"Connector"** - A device used to connect parts of a personal fall arrest system or parts of a positioning device system together. It may be:

- An independent component of the system (such as a carabiner); or
- An integral component of part of the system (such as a buckle or D-ring sewn into a body belt or body harness or a snaphook spliced or sewn to a lanyard or self-retracting lanyard).

**"Deceleration device"** - A mechanism, such as a rope grab, rip stitch lanyard, specially woven lanyard, tearing or deforming lanyard, or automatic self-retracting lifeline/lanyard, that serves to dissipate a substantial amount of energy during a fall arrest, or to limit the energy imposed on an employee during fall arrest.

**"Deceleration distance"** - The additional vertical distance a falling employee travels, excluding lifeline elongation and free fall distance, before stopping, from the point at which the deceleration device begins to operate. It is measured from the location of an employee's body belt or body harness attachment point at the moment of activation (at the onset of fall arrest forces) of the deceleration device during a fall, to the location of that attachment point after the employee comes to a full stop.

**"Director"** - The director of the department of labor and industries or a designated representative.

**"Employee"** - Any person engaged in ship repairing, ship building, or ship breaking or related employment as defined in these standards.

**"Employer"** - An employer with employees who are employed, in whole or in part, in ship repair, ship building and ship breaking, or related employment as defined in these standards.

**"Enclosed space"** - A space, other than a confined space, that is enclosed by bulkheads and overhead. It includes cargo holds, tanks, quarters, and machinery and boiler spaces.

**"Equivalent"** - Alternative designs, materials, or methods to protect against a hazard which the employer can demonstrate will provide an equal or greater degree of safety for employees than the method or item specified in the standard.

**"Free fall"** - To fall before a personal fall arrest system begins to apply force to arrest the fall.

**"Free fall distance"** - The vertical displacement of the fall arrest attachment point on the employee's body harness between onset of the fall and just before the system begins to apply force to arrest the fall. This distance excludes deceleration distance, and lifeline/lanyard elongation, but includes any deceleration device slide distance or self-retracting lifeline/lanyard extension before the device operates and fall arrest forces occur.

**"Gangway"** - A ramp-like or stair-like means to board or leave a vessel including accommodation ladders, gangplanks and brows.

**"Hazardous substance"** - A substance likely to cause injury because it is explosive, flammable, poisonous, corrosive, oxidizing, irritant, or otherwise harmful.

**"Hot-work"** - Riveting, welding, burning or other fire or spark producing operations.

**"Lanyard"** - A flexible line of rope, wire rope, or strap which generally has a connector at each end for connecting the body belt or body harness to a deceleration device, lifeline, or anchorage.

**"Lifeline"** - A component consisting of a flexible line to connect to an anchorage at one end to hang vertically (vertical lifeline), or to connect to anchorages at both ends to stretch horizontally (horizontal lifeline), and which serves as a means for connecting other components of a personal fall arrest system to the anchorage.

**"Lower levels"** - Those areas or surfaces to which an employee can fall. Such areas or surfaces include but are not limited to ground levels, floors, ramps, tanks, materials, water, excavations, pits, vessels, structures, or portions thereof.

**"Personal fall arrest system"** - A system used to arrest an employee in a fall from a working level. It consists of an anchorage, connectors, body harness and may include a lanyard, a deceleration device, a lifeline, or a suitable combination.

**"Portable unfired pressure vessel"** - A pressure container or vessel used aboard ship, other than the ship's equipment, containing liquids or gases under pressure. This does not include pressure vessels built to ((IEC)) Department of Transportation regulations under 49 CFR Part 78, Subparts C and H.

**"Positioning device system"** - A body belt or body harness system rigged to allow an employee to be supported at an elevated vertical surface, such as a wall or window, and to be able to work with both hands free while leaning.

**"Powder actuated fastening tool"** - A tool or machine that drives a stud, pin, or fastener by means of an explosive charge.

**"Qualified person"** - A person who has successfully demonstrated the ability to solve or resolve problems related to the subject matter and work by possessing a recognized degree or certificate of professional standing or by extensive knowledge, training, and experience.

**"Related employment"** - Any employment related to or performed in conjunction with ship repairing, ship building or ship breaking work, including, but not limited to, inspecting, testing, and serving as a watchman.

**"Restraint (tether) line"** - A line from an anchorage, or between anchorages, to which the employee is secured so as to prevent the employee from walking or falling off an elevated work surface.

Note: A restraint line is not necessarily designed to withstand forces resulting from a fall.

**"Rope grab"** - A deceleration device that travels on a lifeline and automatically, by friction, engages the lifeline and locks to arrest the fall of an employee. A rope grab usually uses the principle of inertial locking, cam/level locking or both.

**"Shall" or "must"** - Mandatory.

**"Ship breaking"** - Breaking down a vessel's structure to scrap the vessel, including the removal of gear, equipment or any component part of a vessel.

**"Ship building"** - Construction of a vessel, including the installation of machinery and equipment.

**"Ship repairing"** - Repair of a vessel including, but not limited to, alterations, conversions, installations, cleaning, painting, and maintenance.

**"Vessel"** - Every watercraft for use as a means of transportation on water, including special purpose floating structures not primarily designed for or used as a means of transportation on water.

#### AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

**WAC 296-304-01003 Reference specifications, standards, and codes.** Specifications, standards, and codes of agencies of the U.S. government, to the extent specified in the text, form a part of these regulations. In addition, the specifications, standards, and codes of organizations which are not agencies of the U.S. government, in effect on the date of the promulgation of these regulations as listed below, to the extent specified in the text, form a part of these standards:

National Fire Protection Association, 60 Batterymarch Street, Boston, Mass.02110,

Underwriters' Laboratories, Inc., 207 East Ohio Street, Chicago, Ill.60611,

United States of America Standard Safety Code for Portable Wood Ladders, A14.1-((1959)) 1975, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016,

United States of America Standard Safety Code for Portable Metal Ladders, A14.2-((1956)) 1972, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016,

United States of America Standard Safety Code for Head, Eye, and Respiratory Protection, Z2.1-1959, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016,

American Society of Mechanical Engineers, Boiler and Pressure Vessel Code, Section VIII, Rules for Construction of Unfired Pressure Vessels, American Society of Mechanical Engineers, 345 East 47th Street, New York, N.Y. 10017,

Threshold Limit Values, American Conference of Governmental Industrial Hygienists, 1014 Broadway, Cincinnati, Ohio 45202,

United States of America Standards Safety Code for the Use, Care, and Protection of Abrasive Wheels, B7.1-1964, United States of America Standards Institute, Inc., 10 East 40th Street, New York, N.Y. 10016.

#### AMENDATORY SECTION (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

**WAC 296-304-02007 Hot work.** (1) Hot work requiring testing by a marine chemist or Coast Guard authorized person.

(a) The employer shall ensure that hot work is not performed in or on any of the following confined and enclosed spaces and other dangerous atmospheres, boundaries of spaces or pipelines until the work area has been tested and certified by a marine chemist or a U.S. Coast Guard authorized person as "safe for hot work":

(i) Within, on, or immediately adjacent to spaces that contain or have contained combustible or flammable liquids or gases.

(ii) Within, on, or immediately adjacent to fuel tanks that contain or have last contained fuel; and

(iii) On pipelines, heating coils, pump fittings or other accessories connected to spaces that contain or have last contained fuel.

(iv) Exception: On dry cargo, miscellaneous and passenger vessels and in the landside operations within spaces which meet the standards for oxygen, flammability and toxicity in WAC 296-304-02003, but are adjacent to spaces containing flammable gases or liquids, as long as the gases or liquids ((have)) with a flash point below 150 deg. F (65.6 deg. C) ((and)) when the distance between such spaces and the work is 25 feet ((7.5)) 7.62 m or greater.

Note: For flammable liquids with flash points above 150 deg. F (65.6 deg. C), see subsection (2) of this section.

Note to (1)(a): The criteria for "safe for hot work" is located in the definition section, WAC 296-304-020(2).

(b) The certificate issued by the marine chemist or Coast Guard authorized person shall be posted in the immediate vicinity of the affected operations while they are in progress and kept on file for a period of at least three months from the date of the completion of the operation for which the certificate was generated.

(2) Hot work requiring testing by a competent person.

(a) Hot work is not permitted in or on the following spaces or adjacent spaces or other dangerous atmospheres until they have been tested by a competent person and determined to contain no concentrations of flammable vapors equal to or greater than 10 percent of the lower explosive limit:

(i) Dry cargo holds;

(ii) The bilges;

(iii) The engine room and boiler spaces for which a marine chemist or a Coast Guard authorized person certificate is not required under subsection (1)(a)(i) of this section; and

(iv) Vessels and vessel sections for which a marine chemist or Coast Guard authorized person certificate is not required under subsection (1)(a)(i) of this section; and

(v) Land-side confined and enclosed spaces or other dangerous atmospheres not covered by subsection (1)(a) of this section.

(b) If the concentration of flammable vapors or gases is equal to or greater than 10 percent of the lower explosive limit in the space or an adjacent space where the hot work is to be done, then the space shall be labeled "not safe for hot work" and ventilation shall be provided at volumes and flow rates sufficient to ensure that the concentration of flammable vapors or gases is below 10 percent by volume of the lower explosive limit. The warning label may be removed when the concentration of flammable vapors and gases are below 10 percent of the lower explosive limit.

Note to WAC

296-304-02007: See WAC 296-304-02013—Appendix A, for additional information relevant to performing hot work safely.

**AMENDATORY SECTION** (Amending WSR 95-22-015, filed 10/20/95, effective 1/16/96)

**WAC 296-304-02009 Maintenance of safe conditions.**

(1) Preventing hazardous materials from entering. Pipelines that could carry hazardous materials into spaces that have been certified "safe for workers" or "safe for hot work" shall be disconnected, blanked off, or otherwise blocked by a positive method to prevent hazardous materials from being discharged into the space.

(2) Alteration of existing conditions. When a change that could alter conditions within a tested confined or enclosed space or other dangerous atmosphere occurs, work in the affected space or area shall be stopped. Work may not be resumed until the affected space or area is visually inspected and retested and found to comply with WAC 296-304-02003, 296-304-02005, and 296-304-02007, as applicable.

Note to (2): Examples of changes that would warrant the stoppage of work include: The opening of manholes or other closures or the adjusting of a valve regulating the flow of hazardous materials.

(3) Tests to maintain the conditions of a marine chemist's or Coast Guard authorized person's certificates. A competent person shall visually inspect and test each space certified as "safe for workers" or "safe for hot work," as often as necessary to ensure that atmospheric conditions within that space ((is)) are maintained within the conditions established by the certificate after the certificate has been issued.

(4) Change in the conditions of a marine chemist's or Coast Guard authorized person's certificate. If a competent person finds that the atmospheric conditions within a certified space fail to meet the applicable requirements of WAC 296-304-02003, 296-304-02005, and 296-304-02007, work in the certified space shall be stopped and may not be resumed until the space has been retested by a marine chemist or Coast Guard authorized person and a new certificate issued in accordance with WAC 296-304-02007(1).

(5) Tests to maintain a competent person's findings. After a competent person has conducted a visual inspection and tests required in WAC 296-304-02003, 296-304-02005, and 296-304-02007 and determined a space to be safe for an employee to enter, he or she shall continue to test and visually inspect spaces as often as necessary to ensure that the required atmospheric conditions within the tested space are maintained.

(6) Changes in conditions determined by competent person's findings. After the competent person has determined initially that a space is safe for an employee to enter and he or she finds subsequently that the conditions within the tested space fail to meet the requirements of WAC 296-304-02003, 296-304-02005, and 296-304-02007, as applicable, work shall be stopped until the conditions in the tested space are corrected to comply with WAC 296-304-02003, 296-304-02005, and 296-304-02007, as applicable.

**AMENDATORY SECTION** (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-03007 Painting.** All respirators required by this section must meet the requirements of chapter 296-62 WAC, Part E.

(1) Paints mixed with toxic vehicles or solvents.

(a) When employees spray paints mixed with toxic vehicles or solvents, the employer must ensure that the following conditions are met:

(i) In confined spaces, employees continuously exposed to spraying are protected by air line respirators.

(ii) In tanks or compartments, employees continuously exposed to spraying are protected by air line respirators. Where mechanical ventilation is provided, employees are protected by respirators.

(iii) In large and well ventilated areas, employees exposed to spraying are protected by respirators.

(b) The employer must ensure that where employees apply by brush paints with toxic solvents in confined spaces or other areas where lack of ventilation creates a hazard, the employees are protected by filter respirators.

(c) When flammable paints or vehicles are used, precautions shall be taken in accordance with the requirements of WAC 296-304-03009.

(d) The metallic parts of air moving devices, including fans, blowers, and jet-type air movers, and all duct work shall be electrically bonded to the vessel's structure.

(2) Paints and tank coatings dissolved in highly volatile, toxic and flammable solvents. Several organic coatings, adhesives and resins are dissolved in highly toxic, flammable and explosive solvents with flash points below 80°F. Work involving such materials shall be done only when all of the following special precautions have been taken:

(a) Sufficient exhaust ventilation shall be provided to keep the concentration of solvent vapors below ten percent of the lower explosive limit. Frequent tests shall be made by a competent person to ascertain the concentration.

(b) If the ventilation fails or if the concentration of solvent vapors ((rises above)) reaches or exceeds ten percent of the lower explosive limit, painting shall be stopped and the

compartment shall be evacuated until the concentration again falls below ten percent of the lower explosive limit. If the concentration does not fall when painting is stopped, additional ventilation to bring the concentration down to ten percent of the lower explosive limit shall be provided.

(c) Ventilation shall be continued after the completion of painting until the space or compartment is gas free. The final determination as to whether the space or compartment is gas free shall be made after the ventilating equipment has been shut off for a least ten minutes.

(d) Exhaust ducts shall discharge clear of working areas and away from sources of possible ignition. Periodic tests shall be made to ensure that the exhausted vapors are not accumulating in other areas within or around the vessel or dry dock.

(e) All motors and control equipment shall be of the explosion-proof type. Fans shall have nonferrous blades. Portable air ducts shall also be of nonferrous materials. All motors and associated control equipment shall be properly maintained and grounded.

(f) Only nonsparking paint buckets, spray guns and tools shall be used. Metal parts of paint brushes and rollers shall be insulated. Staging shall be erected in a manner which ensures that it is nonsparking.

(g) Only explosion proof lights, approved by the Underwriters' Laboratories for use in Class I, Group D atmospheres, or approved as permissible by the U.S. Bureau of Mines or the U.S. Coast Guard, shall be used.

(h) A competent person shall inspect all power and lighting cables to ensure that the insulation is in excellent condition, free of all cracks and worn spots, that there are no connections within fifty feet of the operation, that lines are not overloaded, and that they are suspended with sufficient slack to prevent undue stress or chafing.

(i) The face, eyes, head, hands and all other exposed parts of the bodies of employees handling highly volatile paints must be protected according to WAC 296-304-090. All footwear must be nonsparking, such as rubbers, rubber boots or rubber soled shoes without nails. Coveralls or other outer clothing must be made of cotton. Rubber gloves, instead of plastic gloves, must be used to protect against the danger of static sparks.

(j) No matches, lighted cigarettes, cigars, or pipes, and no cigarette lighters or ferrous articles shall be taken into the area where work is being done.

(k) All solvent drums taken into the compartment shall be placed on nonferrous surfaces and shall be grounded to the vessel. Metallic contact shall be maintained between containers and drums when materials are being transferred from one to another.

(l) Spray guns, paint pots, and metallic parts of connecting tubing shall be electrically bonded, and the bonded assembly shall be grounded to the vessel.

(m) The employer must ensure that all employees continuously in a compartment in which such painting is performed, are protected by air line respirators and by suitable protective clothing. Employees entering such compartments for a limited time must be protected by filter cartridge type respirators.

(n) The employer must ensure that all employees doing exterior paint spraying with such paints are protected by suitable filter cartridge type respirators and by suitable protective clothing.

**AMENDATORY SECTION** (Amending WSR 95-04-006, filed 1/18/95, effective 3/10/95)

**WAC 296-304-04001 Ventilation and protection in welding, cutting and heating.** (1) Mechanical ventilation requirements.

(a) For the purposes of this section, mechanical ventilation shall meet the following requirements:

(i) Mechanical ventilation shall consist of either general mechanical ventilation systems or local exhaust systems.

(ii) General mechanical ventilation shall be of sufficient capacity and so arranged as to produce the number of air changes necessary to maintain welding fumes and smoke within safe limits.

(iii) Local exhaust ventilation shall consist of freely movable hoods intended to be placed by the welder or burner as close as practicable to the work. This system shall be of sufficient capacity and so arranged as to remove fumes and smoke at the source and keep the concentration of them in the breathing zone within safe limits.

(iv) Contaminated air exhausted from a working space shall be discharged into the open air or otherwise clear of the source of intake air.

(v) All air replacing that withdrawn shall be clean and respirable.

(vi) Oxygen shall not be used for ventilation purposes, comfort cooling, blowing dust or dirt from clothing, or for cleaning the work area.

**(2) Welding, cutting and heating in confined spaces.**

(a) Except as provided in WAC 296-304-04001 (2)(c) and (3)(b), either general mechanical or local exhaust ventilation meeting the requirements of (1) of this section shall be provided whenever welding, cutting or heating is performed in a confined space.

(b) The means of access shall be provided to a confined space and ventilation ducts to this space shall be arranged in accordance with WAC 296-304-05011 (2)(a) and (b).

(c) When sufficient ventilation cannot be obtained without blocking the means of access, employees in the confined space shall be protected by air line respirators in accordance with the requirements of chapter 296-62 WAC, Part E, and an employee on the outside of such a confined space shall be assigned to maintain communication with those working within it and to aid them in an emergency.

(3) Welding, cutting or heating of metals of toxic significance.

(a) Welding, cutting or heating in any enclosed spaces aboard the vessel involving the metals specified in this subsection shall be performed with either general mechanical or local exhaust ventilation meeting the requirements of (1) of this section.

(i) Zinc-bearing base or filler metals or metals coated with zinc-bearing materials.

(ii) Lead base metals.

(iii) Cadmium-bearing filler materials.

**PERMANENT**

(iv) Chromium-bearing metals or metals coated with chromium-bearing materials.

(b) Welding, cutting, or heating in any enclosed spaces aboard the vessel involving the metals specified in this subsection shall be performed with local exhaust ventilation in accordance with the requirements of (1) of this section or employees shall be protected by air line respirators in accordance with the requirements of chapter 296-62 WAC, Part E.

(i) Metals containing lead, other than as an impurity, or metals coated with lead-bearing materials.

(ii) Cadmium-bearing or cadmium coated base metals.

(iii) Metals coated with mercury-bearing metals.

(iv) Beryllium-containing base or filler metals. Because of its high toxicity, work involving beryllium shall be done with both local exhaust ventilation and air line respirators.

(c) Employees performing such operations in the open air shall be protected by filter type respirators in accordance with the requirements of WAC 296-304-09003, except that employees performing such operations on beryllium-containing base or filler metals shall be protected by air line respirators in accordance with the requirements of chapter 296-62 WAC, Part E.

(d) Other employees exposed to the same atmosphere as the welders or burners shall be protected in the same manner as the welder or burner.

(4) Inert-gas metal-arc welding.

(a) Since the inert-gas metal-arc welding process involves the production of ultraviolet radiation of intensities of 5 to 30 times that produced during shielded metal-arc welding, the decomposition of chlorinated solvents by ultraviolet rays, and the liberation of toxic fumes and gases, employees shall not be permitted to engage in, or be exposed to the process until the following special precautions have been taken:

(i) The use of chlorinated solvents shall be kept at least two hundred feet from the exposed arc, and surfaces prepared with chlorinated solvents shall be thoroughly dry before welding is permitted on such surfaces.

(ii) Helpers and other employees in the area not protected from the arc by screening as provided in WAC 206-304-04011(5) shall be protected by filter lenses meeting the requirements of ((WAC 296-304-09001 (1) and (3))) Tables I-1A and B (see below). When two or more welders are exposed to each other's arc, filter lens goggles of a suitable type meeting the requirements of WAC 296-304-09001 (1) and (3) shall be worn under welding helmets or hand shields to protect the welder against flashes and radiant energy when either the helmet is lifted or the shield is removed.

(iii) Welders and other employees who are exposed to radiation shall be suitably protected so that the skin is covered completely to prevent burns and other damage by ultraviolet rays. Welding helmets and hand shields shall be free of leaks and openings, and free of highly reflective surfaces.

(iv) When inert-gas metal-arc welding is being performed on stainless steel, the requirements of (3)(b) of this section shall be met to protect against dangerous concentrations of nitrogen dioxide.

(5) General welding, cutting and heating.

(a) Welding, cutting and heating not involving conditions or materials described in (2), (3) or (4) of this section

may normally be done without mechanical ventilation or respiratory protective equipment, but where, because of unusual physical or atmospheric conditions, an unsafe accumulation of contaminants exists, suitable mechanical ventilation or respiratory protective equipment shall be provided.

(b) Employees performing any type of welding, cutting or heating shall be protected by suitable eye protective equipment in accordance with the requirements of ((WAC 296-304-09001 (1) and (3))) Tables I-1A and B (see below).

(6) Residues and cargos of metallic ores.

((e))) Residues and cargos of metallic ores of toxic significance shall be removed from the area or protected from the heat before welding, cutting or heating is begun.

**TABLE I-1A**

**FILTER LENSES FOR PROTECTION AGAINST  
RADIANT ENERGY**

OPERATIONS	ELECTRODE SIZE 1/32 IN	ARC CURRENT	MINIMUM PROTECTIVE SHADE
<u>Shielded metal arc welding</u>	<u>Less than 3</u>	<u>Less than 60</u>	<u>7</u>
	<u>3-5</u>	<u>60-160</u>	<u>8</u>
	<u>5-8</u>	<u>160-250</u>	<u>10</u>
	<u>More than 8</u>	<u>250-550</u>	<u>11</u>
<u>Gas metal arc welding and flux cored arc welding</u>	<u>Less than 60</u>	<u>Less than 60</u>	<u>7</u>
		<u>60-160</u>	<u>10</u>
		<u>160-250</u>	<u>10</u>
		<u>250-550</u>	<u>10</u>
<u>Gas Tungsten arc welding</u>	<u>Less than 50</u>	<u>Less than 50</u>	<u>8</u>
		<u>50-150</u>	<u>8</u>
		<u>150-500</u>	<u>10</u>
<u>Air carbon arc cutting</u>	<u>(Light)</u>	<u>Less than 500</u>	<u>10</u>
	<u>(Heavy)</u>	<u>500-1000</u>	<u>11</u>
<u>Plasma arc welding</u>	<u>Less than 20</u>	<u>Less than 20</u>	<u>6</u>
		<u>20-100</u>	<u>8</u>
		<u>100-400</u>	<u>10</u>
		<u>400-800</u>	<u>11</u>
<u>Plasma arc cutting</u>	<u>(Light)**</u>	<u>Less than 300</u>	<u>8</u>
	<u>(Medium)**</u>	<u>300-400</u>	<u>9</u>
	<u>(Heavy)**</u>	<u>400-800</u>	<u>10</u>
<u>Torch brazing</u>	<u>=</u>	<u>=</u>	<u>3</u>
<u>Torch soldering</u>	<u>=</u>	<u>=</u>	<u>2</u>
<u>Carbon Arc welding</u>	<u>=</u>	<u>=</u>	<u>14</u>

\*\*These values apply where the actual arc is clearly seen. Lighter filters may be used when the arc is hidden by the workplace.

**TABLE I-1B**

**FILTER LENSES FOR PROTECTION AGAINST  
RADIANT ENERGY**

OPERATIONS	PLATE THICKNESS... INCHES	PLATE THICKNESS... MM	MINIMUM* PROTECTIVE SHADE
<u>Gas welding</u>			
<u>Light</u>	<u>Under 1/8</u>	<u>Under 3.2</u>	<u>4</u>
<u>Medium</u>	<u>1/8 - 1/2</u>	<u>3.2 - 12.7</u>	<u>5</u>
<u>Heavy</u>	<u>Over 1/2</u>	<u>Over 12.7</u>	<u>6</u>

OPERATIONS	PLATE THICKNESS... INCHES	PLATE THICKNESS... MM	MINIMUM* PROTECTIVE SHADE
Oxygen cutting			
Light	Under 1	Under 25	3
Medium	1 - 6	25 - 100	4
Heavy	Over 6	Over 150	5

\*As rule of thumb, start with a shade that is too dark to see the weld zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxyfuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the visible light of the (spectrum) operation.

## AMENDATORY SECTION (Amending Order 76-7, filed 3/1/76)

### WAC 296-304-05001 Scaffolds or staging. (1) General requirements.

(a) All scaffolds and their supports whether of lumber, steel or other material, shall be capable of supporting the load they are designed to carry with a safety factor of not less than four.

(b) All lumber used in the construction of scaffolds shall be spruce, fir, long leaf yellow pine, Oregon pine or wood of equal strength. The use of hemlock, short leaf yellow pine, or short fiber lumber is prohibited.

(c) Lumber dimensions as given are nominal except where given in fractions of an inch.

(d) All lumber used in the construction of scaffolds shall be sound, straight-grained, free from cross grain, shakes and large, loose or dead knots. It shall also be free from dry rot, large checks, worm holes or other defects which impair its strength or durability.

(e) Scaffolds shall be maintained in a safe and secure condition. Any component of the scaffold which is broken, burned or otherwise defective shall be replaced.

(f) Barrels, boxes, cans, loose bricks, or other unstable objects shall not be used as working platforms or for the support of planking intended as scaffolds or working platforms.

(g) No scaffold shall be erected, moved, dismantled or altered except under the supervision of competent persons.

(h) No welding, burning, riveting or open flame work shall be performed on any staging suspended by means of fiber rope.

(i) Lifting bridles on working platforms suspended from cranes shall consist of four legs so attached that the stability of the platform is assured.

(j) Unless the crane hook has a safety latch or is moused, the lifting bridles on working platforms suspended from cranes shall be attached by shackles to the lower lifting block or other positive means shall be taken to prevent them from becoming accidentally disengaged from the crane hook.

(2) Independent pole wood scaffolds.

(a) All pole uprights shall be set plumb. Poles shall rest on a foundation of sufficient size and strength to distribute the load and to prevent displacement.

(b) In light-duty scaffolds not more than 24 feet in height, poles may be spliced by overlapping the ends not less than 4 feet and securely nailing them together. A substantial

cleat shall be nailed to the lower section to form a support for the upper section except when bolted connections are used.

(c) All other poles to be spliced shall be squared at the ends of each splice, abutted, and rigidly fastened together by not less than two cleats securely nailed or bolted thereto. Each cleat shall overlap each pole end by at least 24 inches and shall have a width equal to the face of the pole to which it is attached. The combined cross sectional area of the cleats shall be not less than the cross sectional area of the pole.

(d) Ledgers shall extend over two consecutive pole spaces and shall overlap the poles at each end by not less than 4 inches. They shall be left in position to brace the poles as the platform is raised with the progress of the work. Ledgers shall be level and shall be securely nailed or bolted to each pole and shall be placed against the inside face of each pole.

(e) All bearers shall be set with their greater dimension vertical and shall extend beyond the ledgers upon which they rest.

(f) Diagonal bracing shall be provided between the parallel poles, and cross bracing shall be provided between the inner and outer poles or from the outer poles to the ground.

(g) Minimum dimensions and spacing of members shall be in accordance with Table E-1 in WAC 296-304-07011.

(h) Platform planking shall be in accordance with the requirements of (8) of this section.

(i) Backrails and toeboards shall be in accordance with the requirements of (9) of this section.

(3) Independent pole metal scaffolds.

(a) Metal scaffold members shall be maintained in good repair and free of corrosion.

(b) All vertical and horizontal members shall be fastened together with a coupler or locking device which will form a positive connection. The locking device shall be of a type which has no loose parts.

(c) Posts shall be kept plumb during erection and the scaffold shall be subsequently kept plumb and rigid by means of adequate bracing.

(d) Posts shall be fitted with bases supported on a firm foundation to distribute the load. When wooden sills are used, the bases shall be fastened thereto.

(e) Bearers shall be located at each set of posts, at each level, and at each intermediate level where working platforms are installed.

(f) Tubular bracing shall be applied both lengthwise and crosswise as required.

(g) Platform planking shall be in accordance with the requirements of (8) of this section.

(h) Backrails and toeboards shall be in accordance with the requirements of (9) of this section.

(4) Wood trestle and extension trestle ladders.

(a) The use of trestle ladders, or extension sections or base sections of extension trestle ladders longer than 20 feet is prohibited. The total height of base and extension may, however, be more than 20 feet.

(b) The minimum dimensions of the side rails of the trestle ladder, or the base sections of the extension trestle ladder, shall be as follows:

(i) Ladders up to and including those 16 feet long shall have side rails of not less than 1 5/16 x 2 3/4 inch lumber.

(ii) Ladders over 16 feet long and up to and including those 20 feet long shall have side rails of not less than 1 5/16 x 3 inch lumber.

(c) The side rails of the extension section of the extension trestle ladder shall be parallel and shall have minimum dimensions as follows:

(i) Ladders up to and including 12 feet long shall have side rails of not less than 1 5/16 x 2 1/4 inch lumber.

(ii) Ladders over 12 feet long and up to and including those 16 feet long shall have side rails of not less than 1 5/16 x 2 1/2 inch lumber.

(iii) Ladders over 16 feet long and up to and including those 20 feet long shall have side rails of not less than 1 5/16 x 3 inch lumber. (Rev. 2-17-76)

(d) Trestle ladders and base sections of extension trestle ladders shall be so spread that when in an open position the spread of the trestle at the bottom, inside to inside, shall be not less than 5 1/2 inches per foot of the length of the ladder.

(e) The width between the side rails at the bottom of the trestle ladder or of the base section of the extension trestle ladder shall be not less than 21 inches for all ladders and sections 6 feet or less in length. For longer lengths of ladder the width shall be increased at least 1 inch for each additional foot of length. The width between the side rails of the extension section of the trestle ladder shall be not less than 12 inches.

(f) In order to limit spreading, the top ends of the side rails of both the trestle ladder and of the base section of the extension trestle ladder shall be beveled, or of equivalent construction, and shall be provided with a metal hinge.

(g) A metal spreader or locking device to hold the front and back sections in an open position, and to hold the extension section securely in the elevated position, shall be a component of each trestle ladder or extension trestle ladder.

(h) Rungs shall be parallel and level. On the trestle ladder, or on the base section of the extension trestle ladder, rungs shall be spaced not less than 8 inches nor more than 18 inches apart; on the extension section of the extension trestle ladder, rungs shall be spaced not less than 6 inches nor more than 12 inches apart.

(i) Platform planking shall be in accordance with the requirements of (8) of this section, except that the width of the platform planking shall not exceed the distance between the ((siderails)) side rails.

(j) Backrails and toeboards shall be in accordance with the requirements of (9) of this section.

(5) Painters' suspended scaffolds.

(a) The supporting hooks of swinging scaffolds shall be constructed to be equivalent in strength to mild steel or wrought iron, shall be forged with care, shall be not less than 7/8 inch in diameter, and shall be secured to a safe anchorage at all times.

(b) The ropes supporting a swinging scaffold shall be equivalent in strength to first-grade 3/4 inch diameter manila rope properly rigged into a set of standard 6 inch blocks consisting of at least one double and one single block.

(c) Manila and wire ropes shall be carefully examined before each operation and thereafter as frequently as may be necessary to ensure their safe condition.

(d) Each end of the scaffold platform shall be supported by a wrought iron or mild steel stirrup or hanger, which in turn is supported by the suspension ropes.

(e) Stirrups shall be constructed so as to be equivalent in strength to wrought iron 3/4 inch in diameter.

(f) The stirrups shall be formed with a horizontal bottom member to support the platform, shall be provided with means to support the guardrail and midrail and shall have a loop or eye at the top for securing the supporting hook on the block.

(g) Two or more swinging scaffolds shall not at any time be combined into one by bridging the distance between them with planks or any other form of platform.

(h) No more than two ((men)) persons shall be permitted to work at one time on a swinging scaffold built to the minimum specifications contained in this section. Where heavier construction is used, the number of ((men)) persons permitted to work on the scaffold shall be determined by the size and the safe working load of the scaffold.

(i) Backrails and toeboards shall be in accordance with the requirements of (9) of this section.

(j) The swinging scaffold platform shall be one of the three types described in (k), (l), and (m) of this section.

(k) The ladder-type platform consists of boards upon a horizontal ladder-like structure, referred to herein as the ladder, the side rails of which are parallel. If this type of platform is used the following requirements shall be met:

(i) The width between the side rails shall be no more than 20 inches.

(ii) The side rails of ladders in ladder-type platforms shall be equivalent in strength to a beam of clear straight-grained spruce of the dimensions contained in Table E-2 in WAC ((296-304-07013)) 296-304-07011.

(iii) The side rails shall be tied together with tie rods. The tie rods shall be not less than 5/16 inch in diameter, located no more than 5 feet apart, pass through the rails, and be riveted up tight against washers at both ends.

(iv) The rungs shall be of straight-grained oak, ash, or hickory, not less than 1 1/8 inches diameter, with 7/8 inch tenons mortised into the side rails not less than 7/8 inch and shall be spaced no more than 18 inches on centers.

(v) Flooring strips shall be spaced no more than 5/8 inch apart except at the side rails, where 1 inch spacing is permissible.

(vi) Flooring strips shall be cleated on their undersides.

(l) The plank-type platform consists of planks supported on the stirrups or hangers. If this type of platform is used, the following requirements shall be met:

(i) The planks of plank-type platforms shall be not less than 2 x 10 inch lumber.

(ii) The platform shall be no more than 24 inches in width.

(iii) The planks shall be tied together by cleats of not less than 1 x 6 inch lumber, nailed on their undersides at intervals of not more than 4 feet.

(iv) The planks shall extend not less than 6 inches nor more than 18 inches beyond the supporting stirrups.

(v) A cleat shall be nailed across the platform on the underside at each end outside the stirrup to prevent the platform from slipping off the stirrup.

(vi) Stirrup supports shall be not more than 10 feet apart.

(m) The beam-type platform consists of longitudinal side stringers with cross beams set on edge and spaced not more than 4 feet apart on which longitudinal platform planks are laid. If this type platform is used the following requirements shall be met:

(i) The side stringers shall be of sound, straight-grained lumber, free from knots, and of not less than 2 x 6 inch lumber, set on edge.

(ii) The stringers shall be supported on the stirrups with a clear span between stirrups of not more than 16 feet.

(iii) The stringers shall be bolted to the stirrups by U-bolts passing around the stirrups and bolted through the stringers with nuts drawn up tight on the inside face.

(iv) The ends of the stringers shall extend beyond the stirrups not less than 6 inches nor more than 12 inches at each end of the platform.

(v) The platform shall be supported on cross beams of 2 x 6 inch lumber between the side stringers securely nailed thereto and spaced not more than 4 feet on centers.

(vi) The platform shall be not more than 24 inches wide.

(vii) The platform shall be formed of boards 7/8 inch in thickness by not less than 6 inches in width, nailed tightly together, and extending to the outside face of the stringers.

(viii) The ends of all platform boards shall rest on the top of the cross beams, shall be securely nailed, and at no intermediate points in the length of the platform shall there by any cantilever ends.

#### (6) Horse scaffolds.

(a) The minimum dimensions of lumber used in the construction of horses shall be in accordance with Table E-3 in WAC 296-304-07011.

(b) Horses constructed of materials other than lumber shall provide the strength, rigidity and security required of horses constructed of lumber.

(c) The lateral spread of the legs shall be equal to not less than one-third of the height of the horse.

(d) All horses shall be kept in good repair, and shall be properly secured when used in staging or in locations where they may be insecure.

(e) Platform planking shall be in accordance with the requirements of (8) of this section.

(f) Backrails and toeboards shall be in accordance with (9) of this section.

#### (7) Other types of scaffolds.

(a) Scaffolds of a type for which specifications are not contained in this section shall meet the general requirements of (1), (8) and (9) of this section, shall be in accordance with recognized principles of design and shall be constructed in accordance with accepted standards covering such equipment.

#### (8) Scaffold or platform planking.

(a) Except as otherwise provided in (5)(k) and (m), platform planking shall be of not less than 2 x 10 inch lumber. Platform planking shall be straight-grained and free from large or loose knots and may be either rough or dressed.

(b) Platforms of staging shall be not less than two 10 inch planks in width except in such cases as the structure of the vessel or the width of the trestle ladders make it impossible to provide such a width.

(c) Platform planking shall project beyond the supporting members at either end by at least 6 inches but in no case shall project more than 12 inches unless the planks are fastened to the supporting members.

(d) Table E-4 in WAC 296-304-07011 shall be used as a guide in determining safe loads for scaffold planks.

#### (9) Backrails and toeboards.

(a) Scaffolding, staging, runways, or working platforms which are supported or suspended more than 5 feet above a solid surface, or at any distance above the water, shall be provided with a railing which has a top rail whose upper surface is from 42 to 45 inches above the upper surface of the staging, platform, or runway and a midrail located halfway between the upper rail and the staging, platform, or runway.

(b) Rails shall be of 2 x 4 inch lumber, flat bar or pipe. When used with rigid supports, taut wire or fiber rope of adequate strength may be used. If the distance between supports is more than 8 feet, rails shall be equivalent in strength to 2 x 4 inch lumber. Rails shall be firmly secured. Where exposed to hot work or chemicals, fiber rope rails shall not be used.

(c) Rails may be omitted where the structure of the vessel prevents their use. When rails are omitted employees working more than 5 feet above solid surfaces shall be protected by safety belts and life lines meeting the requirements of WAC ((296-304-09007)) 296-304-09021(2), and employees working over water shall be protected by personal flotation devices meeting the requirements of WAC ((296-304-09007)) 296-304-09017(1).

(d) Employees working from swinging scaffolds which are triced out of a vertical line below their supports or from scaffolds on paint floats subject to surging, shall be protected against falling toward the vessel by a railing or a safety belt and line attached to the backrail.

(e) When necessary, to prevent tools and materials from falling on men below, toeboards of not less than 1 x 4 inch lumber shall be provided.

#### (10) Access to staging.

(a) Access from below to staging more than 5 feet above a floor, deck or the ground shall consist of well secured stairways, cleated ramps, fixed or portable ladders meeting the applicable requirements of WAC 296-304-05003 or rigid type noncollapsible trestles with parallel and level rungs.

(b) Ramps and stairways shall be provided with 36-inch handrails with midrails.

(c) Ladders shall be so located or other means shall be taken so that it is not necessary for employees to step more than one foot from the ladder to any intermediate landing or platform.

(d) Ladders forming integral parts of prefabricated staging are deemed to meet the requirements of these regulations.

(e) Access from above to staging more than 3 feet below the point of access shall consist of a straight, portable ladder meeting the applicable requirements of WAC 296-304-05003 or a Jacob's ladder properly secured, meeting the requirements of WAC 296-304-05007(4).

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)**WAC 296-304-05003 Ladders.** (1) General requirements.

(a) The use of ladders with broken or missing rungs or steps, broken or split side rails, or other faulty or defective construction is prohibited. When ladders with such defects are discovered, they shall be immediately withdrawn from service. Inspection of metal ladders shall include checking for corrosion of interiors of open end, hollow rungs.

(b) When sections of ladders are spliced, the ends shall be abutted, and not fewer than 2 cleats shall be securely nailed or bolted to each rail. The combined cross sectional area of the cleats shall be not less than the cross sectional area of the side rail. The dimensions of side rails for their total length shall be those specified in (2) or (3) of this section.

(c) Portable ladders shall be lashed, blocked or otherwise secured to prevent their being displaced. The side rails of ladders used for access to any level shall extend not less than 36 inches above that level. When this is not practical, grab rails which will provide a secure grip for an employee moving to or from the point of access shall be installed.

(d) Portable metal ladders shall be of strength equivalent to that of wood ladders. Manufactured portable metal ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Metal Ladders, A14.2.

(e) Portable metal ladders shall not be used near electrical conductors nor for electric arc welding operations.

(f) Manufactured portable wood ladders provided by the employer shall be in accordance with the provisions of the United States of America Standard Safety Code for Portable Wood Ladders, ((A14.1)) A-14.

(2) Construction of portable wood cleated ladders up to 30 feet in length.

(a) Wood side rails shall be made from west coast hemlock, eastern spruce, Sitka spruce, or wood of equivalent strength. Material shall be seasoned, straight-grained wood, and free from shakes, checks, decay or other defects which will impair its strength. The use of low density woods is prohibited.

(b) Side rails shall be dressed on all sides, and kept free of splinters.

(c) All knots shall be sound and hard. The use of material containing loose knots is prohibited. Knots shall not appear on the narrow face of the rail and, when in the side face, shall be not more than 1/2 inch in diameter or within 1/2 inch of the edge of the rail or nearer than 3 inches to a tread or rung.

(d) Pitch pockets not exceeding 1/8 inch in width, 2 inches in length and 1/2 inch in depth are permissible in wood side rails, provided that not more than one such pocket appears in each 4 feet of length.

(e) The width between side rails at the base shall be not less than 11 1/2 inches for ladders 10 feet or less in length. For longer ladders this width shall be increased at least 1/4 inch for each additional 2 feet in length.

(f) Side rails shall be at least 1 5/8 x 3 5/8 inches in cross section.

(g) Cleats (meaning rungs rectangular in cross section with the wide dimension parallel to the rails) shall be of the material used for side rails, straight-grained and free from knots. Cleats shall be mortised into the edges of the side rails 1/2 inch, or filler blocks shall be used on the rails between the cleats. The cleats shall be secured to each rail with three 10d common wire nails or fastened with through bolts or other fasteners of equivalent strength. Cleats shall be uniformly spaced not more than 12 inches apart.

(h) Cleats 20 inches or less in length shall be at least 25/32 x 3 inches in cross section. Cleats over 20 inches but not more than 30 inches in length shall be at least 25/32 x 3 3/4 inches in cross section.

(3) Construction of portable wood cleated ladders from 30 to 60 feet in length.

(a) Ladders from 30 to 60 feet in length shall be in accordance with the specifications of (2) of this section with the following exceptions:

(i) Rails shall be of not less than 2 x 6 inch lumber.

(ii) Cleats shall be of not less than 1 x 4 inch lumber.

(iii) Cleats shall be nailed to each rail with five 10d common wire nails or fastened with through bolts or other fastenings of equivalent strength.

AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)**WAC 296-304-05005 Guarding of deck openings and edges.** (1) When employees are working in the vicinity of flush manholes and other small openings of comparable size in the deck and other working surfaces, such openings shall be suitably covered or guarded to a height of not less than 30 inches, except where the use of such guards is made impracticable by the work actually in progress.

(2) When employees are working around open hatches not protected by coamings to a height of 24 inches or around other large openings, the edge of the opening shall be guarded in the working area to a height of 36 to 42 inches, except where the use of such guards is made impracticable by the work actually in progress.

(3) When employees are exposed to unguarded edges of decks, platforms, flats, and similar flat surfaces, more than 5 feet above a solid surface, the edges shall be guarded by adequate guardrails meeting the requirements of WAC 296-304-05001 (1)(a) and (b), unless the nature of the work in progress or the physical conditions prohibit the use or installation of such guardrails.

(4) When employees are working near the unguarded edges of decks of vessels afloat, they shall be protected by buoyant ((work vests)) personal flotation devices, meeting the requirements of WAC ((296-304-09007)) 296-304-09017(1).

(5) Sections of bilges from which floor plates or gratings have been removed shall be guarded by guardrails except where they would interfere with work in progress. If these open sections are in a walkway at least two 10-inch planks placed side by side, or equivalent, shall be laid across the opening to provide a safe walking surface.

(6) Gratings, walkways, and catwalks, from which sections or ladders have been removed, shall be barricaded with adequate guardrails.

**AMENDATORY SECTION** (Amending Order 74-25, filed 5/7/74)

**WAC 296-304-05009 Access to and guarding of dry docks and marine ((railings)) railways.** (1) A gangway, ramp or permanent stairway of not less than 20 inches walking surface, of adequate strength, maintained in safe repair and securely fastened, shall be provided between a floating dry dock and the pier or bulkhead.

(2) Each side of such gangway, ramp or permanent stairway, including those which are used for access to wing walls from dry dock floors, shall have a railing with a midrail. Such railings on gangways or ramps shall be approximately 42 inches in height; and railings on permanent stairways shall be not less than approximately 30 or more than approximately 34 inches in height. Rails shall be of wood, pipe, chain, wire, or rope and shall be kept taut at all times.

(3) Railings meeting the requirements of (2) of this section shall be provided on the means of access to and from the floors of graving docks.

(4) Railings approximately 42 inches in height, with a ((mid-rail)) midrail, shall be provided on the edges of wing walls of floating dry docks and on the edges of graving docks. Sections of the railings may be temporarily removed where necessary to permit line handling while a vessel is entering or leaving the dock.

(5) When employees are working on the floor of a floating dry dock where they are exposed to the hazard of falling into the water, the end of the dry dock shall be equipped with portable stanchions and 42 inch railings with a midrail. When such a railing would be impracticable or ineffective, other effective means shall be provided to prevent ((men)) employees from falling into the water.

(6) Access to wingwalls from floors of dry docks shall be by ramps, permanent stairways or ladders meeting the applicable requirements of WAC 296-304-05003.

(7) Catwalks on stiles of marine railways shall be no less than 20 inches wide and shall have on at least one side a guardrail and midrail meeting the requirements of WAC 296-304-05001 (9)(a) and (b).

**AMENDATORY SECTION** (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-05013 Working surfaces.** (1) When firebox floors present tripping hazards of exposed tubing or of missing or removed refractory, sufficient planking to afford safe footing shall be laid while work is being carried on within the boiler.

(2) The employer must provide and ensure the use of fall protection when employees work aloft or elsewhere at elevations more than 5 feet above a solid surface.

(a) Employees must be protected by the use of scaffolds, ladders, or personal protection equipment according to WAC 296-304-09021, or 296-304-09023.

(b) Employees must work from scaffolds when visually restricted by:

- Blasting hoods;
- Welding helmets; and
- Burning goggles; except
- For the initial and final welding or burning operation to start or complete a job such as the erection and dismantling of hung scaffolding; or
- Other similar, nonrepetitive jobs of brief duration.

(3) For work performed in restricted quarters, such as behind boilers and in between congested machinery units and piping, work platforms at least 20 inches wide meeting the requirements of WAC 296-304-05001 (8)(b) shall be used. Backrails may be omitted if bulkheading, boilers, machinery units, or piping afford proper protection against falling.

(4) When employees are boarding, leaving, or working from small boats or floats, they shall be protected by personal flotation devices meeting the requirements of WAC ((296-304-09007)) 296-304-09017(1).

**AMENDATORY SECTION** (Amending Order 74-25, filed 5/7/74)

**WAC 296-304-06003 Illumination.** (1) All means of access and walkways leading to working areas as well as the working areas themselves shall be adequately illuminated.

(2) Temporary lights shall meet the following requirements:

(a) Temporary lights shall be equipped with guards to prevent accidental contact with the bulb, except that guards are not required when the construction of the reflector is such that the bulb is deeply recessed.

(b) Temporary lights shall be equipped with heavy duty electric cords with connections and insulation maintained in safe condition. Temporary lights shall not be suspended by their electric cords unless cords and lights are designed for this means of suspension. Splices which have insulation equal to that of the cable are permitted.

(c) Cords shall be kept clear of working spaces and walkways or other locations in which they are readily exposed to damage.

(3) Exposed noncurrent-carrying metal parts of temporary lights furnished by the employer shall be grounded either through a third wire in the cable containing the circuit conductors or through a separate wire which is grounded at the source of the current. Grounding shall be in accordance with the requirements of WAC 296-304-08003(2).

(4) Where temporary lighting from sources outside the vessel is the only means of illumination, portable emergency lighting equipment shall be available to provide illumination for safe movement of employees.

(5) Employees shall not be permitted to enter dark spaces without a suitable portable light. The use of matches and open flame lights is prohibited. In nongas free spaces, portable lights shall meet the requirements of WAC 296-304-02005 (2)(i).

(6) Temporary lighting stringers or streamers shall be so arranged as to avoid overloading of branch circuits. Each branch circuit shall be equipped with overcurrent protection

of capacity not exceeding the rated current carrying capacity of the cord used.

**AMENDATORY SECTION** (Amending Order 74-25, filed 5/7/74)

**WAC 296-304-07009 Hoisting and hauling equipment.** (1) Derrick and crane certification:

(a) Derricks and cranes which are part of, or regularly placed aboard barges, other vessels, or on wingwalls of floating drydocks, and are used to transfer materials or equipment from or to a vessel or drydock, shall be tested and certificated in accordance with the standards provided in WAC 296-304-130 gear certification, by persons accredited for that purpose.

(b) Subsection (a) of this section shall take effect 180 days after the effective date of the amendment.

(2) The moving parts of hoisting and hauling equipment shall be guarded.

(3) Mobile crawler or truck cranes used on a vessel:

(a) The maximum manufacturer's rated safe working loads for the various working radii of the boom and the maximum and minimum radii at which the boom may be safely used with and without outriggers shall be conspicuously posted near the controls and shall be visible to the operator. A radius indicator shall be provided.

(b) The posted safe working loads of mobile crawler or truck cranes under the conditions of use shall not be exceeded.

(4) Accessible areas within the swing radius of the outermost part of the body of a revolving derrick or crane ((either)) whether permanently or temporarily mounted, shall be guarded in such a manner as to prevent an employee from being in such a position as to be struck by the crane or caught between the crane and fixed parts of the vessel or of the crane itself.

(5) Marine railways:

(a) The cradle or carriage on the marine railway shall be positively blocked or secured when in the hauled position to prevent it from being accidentally released.

**AMENDATORY SECTION** (Amending Order 74-25, filed 5/7/74)

**WAC 296-304-07011 Use of gear.** (1) Loads shall be safely rigged before being hoisted.

(2) Plates shall be handled on and off hulls by means of shackles whenever possible. Clips or pads of ample size shall be welded to the plate to receive the shackle pins whenever there are no holes in the plate. When it is not possible to make holes in or to weld pads to the plate, alligator tongs, grab hooks, grab clamps or screw clamps may be used. In such cases special precautions shall be taken to keep employees from under such lifts.

(3) Tag lines shall be provided on loads likely to swing or to need guidance.

(4) When slings are secured to eyebolts, the slings shall be so arranged, using spreaders if necessary, that the pull is within 20 degrees of the axis of the bolt.

(5) Slings shall be padded by means of wood blocks or other suitable material where they pass over sharp edges or corners of loads so as to prevent cutting or kinking.

(6) Skips shall be rigged to be handled by not less than 3 legged bridles, and all legs shall always be used. When open end skips are used, means shall be taken to prevent the contents from falling.

(7) Loose ends of idle legs of slings in use shall be hung on the hook.

(8) Employees shall not be permitted to ride the hook or the load.

(9) Loads (tools, equipment or other materials) shall not be swung or suspended over the heads of employees.

(10) Pieces of equipment or structure susceptible to falling or dislodgement shall be secured or removed as early as possible.

(11) An individual who is familiar with the signal code in use shall be assigned to act as a signalman when the hoist operator cannot see the load being handled. Communications shall be made by means of clear and distinct visual or auditory signals except that verbal signals shall not be permitted.

(12) Pallets, when used, shall be of such material and construction and so maintained as to safely support and carry the loads being handled on them.

(13) A section of hatch through which materials or equipment are being raised, lowered, moved, or otherwise shifted manually or by a crane, winch, hoist, or derrick, shall be completely opened. The beam or pontoon left in place adjacent to an opening shall be sufficiently lashed, locked or otherwise secured to prevent it from ((being unshipped)) moving so that it cannot be displaced by accident.

(14) Hatches shall not be opened or closed while employees are in the square of the hatch below.

(15) Before loads or empty lifting gear are raised, lowered, or swung, clear and sufficient advance warning shall be given to employees in the vicinity of such operations.

(16) At no time shall an employee be permitted to place himself in hazardous position between a swinging load and a fixed object.

**TABLE E-1**

**DIMENSIONS AND SPACING OF WOOD  
INDEPENDENT-POLE SCAFFOLD MEMBERS**

<u>Structural Members</u>	<u>Light duty</u> <u>(Up to 25 pounds per square foot)</u>			<u>Heavy duty</u> <u>(25 to 75 pounds per square foot)</u>		
	<u>Height in feet</u>			<u>Height in feet</u>		
	<24	>24<40	40<60	<24	>24<40	40<60
Poles or uprights (in inches) .....	2x4	3x4 or 2x6	4x4	3x4	4x4	4x6
Bearers (in inches) .....	2x4	2x6	2x6	2x8	2x8	2x10
Ledgers (in inches) .....	2x6	2x6	2x6	2x8	2x8	2x8
Stringer (not support- ing bearers) (in inches) .....	1x6	1x6	1x6	1x6	1x6	1x6
Braces (in inches) .....	1x4	1x6	1x6	1x6	1x6	1x6

Structural Members	Light duty (Up to 25 pounds per square foot)			Heavy duty (25 to 75 pounds per square foot)		
	Height in feet			Height in feet		
	< 24	> 24 < 40	40 < 60	< 24	> 24 < 40	40 < 60
Pole spacing—longi- tudinally (in feet) .....	7 1/2	7 1/2	7 1/2	7	7	7
Pole spacing—trans- versely (in feet) .....	6 1/2	7 1/2 min	8 1/2 min	6 1/2	10	10
Ledger spacing—verti- cally (in feet) .....	7	7	7	4 1/2	4 1/2	4 1/2

**TABLE E-2****SPECIFICATIONS FOR SIDE RAILS OF LADDERS**

Length (in feet)	Cross section (in inches)	
	At ends	At center
15 .....	1 7/8 x 2 3/4	1 7/8 x 3 3/4
16 .....	1 7/8 x 2 3/4	1 7/8 x 3 3/4
17 .....	1 7/8 x 3	1 7/8 x 4
18 .....	1 7/8 x 3	1 7/8 x 4
20 .....	1 7/8 x 3	1 7/8 x 4 1/2
24 .....	1 7/8 x 3	1 7/8 x 4 1/2

**TABLE E-3****SPECIFICATIONS FOR THE CONSTRUCTION OF HORSES**

Structural Members	Height in feet		
	< 10	> 10 < 16	16 < 20
Legs .....	Inches	Inches	Inches
Legs .....	2x4	3x4	4x6
Bearers or headers .....	2x6	2x8	4x6
Crossbraces .....	2x4 or 1x8	2x4	2x6
Longitudinal braces .....	2x4	2x6	2x6

**TABLE E-4****SAFE CENTER LOADS FOR SCAFFOLD PLANK  
OF 1,100 POUNDS FIBRE STRESS**

[Codification note: The graphic presentation of this table has been varied in order that it would fall within the printing specifications for the Washington Administrative Code. The following table had lumber dimensions in the table heading typed in vertically across the page while the remainder of the table was typed horizontally on the page. The "Span in Feet" materials (6 through 16) which ran top to bottom has been switched to run left to right on the page. The "Lumber dimensions in inches" which ran left to right on the page has been switched to run top to bottom on the page.]

Lumber dimensions in inches	Span in Feet					
	6	8	10	12	14	16
A-2 x 10						
B-1 5/8 x 9 1/2	256	192	153	128	110	—
A-2 x 12						
B-1 5/8 x 11 1/2	309	232	186	155	133	116

Lumber dimensions in inches	Span in Feet					
	6	8	10	12	14	16
A-3 x 8						
B-2 5/8 x 7 1/2	526	395	316	263	225	197
A-3 x 10						
B-2 5/8 x 9 1/2	667	600	400	333	286	250
A-3 x 12						
B-2 5/8 x 11 1/2	807	605	484	404	346	303

(A)—Rough lumber.  
(B)—Dressed lumber.

**TABLE G-1****MANILA ROPE  
(in pounds or tons of 2000 pounds)**

Cir- cum- fer- ence in Inches	Dia- meter in Inches	Single		
		Leg	60°	45°
3/4	1/4	120 lbs.	204 lbs.	170 lbs.
1	5/16	200	346	282
1-1/8	3/8	270	467	380
1-1/4	7/16	350	605	493
1-3/8	15/32	450	775	635
1-1/2	1/2	530	915	798
1-3/4	9/16	690	1190	973
2	5/8	880	1520	1240
2-1/4	3/4	1080	1870	1520
2-1/2	13/16	1300	2250	1830
2-3/4	7/8	1540	2660	2170
3	1	1800	3120	2540
3-1/4	1-1/16	1.0 tons	1.7 tons	1.4 tons
3-1/2	1-1/8	1.2	2.1	1.7
3-3/4	1-1/4	1.35	2.3	1.9
4	1-5/16	1.5	2.6	2.1
4-1/2	1-1/2	1.8	3.1	2.5
5	1-5/8	2.25	3.9	3.2
5-1/2	1-3/4	2.6	4.5	3.7
6	2	3.1	5.4	4.4
6-1/2	2-1/8	3.6	6.2	5.1

**TABLE G-2****RATED CAPACITIES FOR IMPROVED PLOW  
STEEL, INDEPENDENT WIRE ROPE CORE,  
WIRE ROPE AND WIRE ROPE SLINGS  
(in tons of 2000 pounds)**

Rope Dia. Inches	SINGLE LEG		
	Vertical		
	A	B	C
6X19 CLASSIFICATION			
1/4"	.59	.56	.53
3/8"	1.3	1.2	1.1
1/2"	2.3	2.2	2.0
5/8"	3.6	3.4	3.0

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
3/4"	5.1	4.9	4.2	3.8	3.6	3.1
7/8"	6.9	6.6	5.5	5.2	4.9	4.1
1"	9.0	8.5	7.2	6.7	6.4	5.4
1-1/8"	11.0	10.0	9.0	8.5	7.8	6.8
<b>6X37 CLASSIFICATION</b>						
1-1/4"	13.	12.	10.	9.9	9.2	7.9
1-3/8"	16.	15.	13.	12.	11.	9.6
1-1/2"	19.	17.	15.	14.	13.	11.
1-3/4"	26.	24.	20.	19.	18.	15.
2"	33.	30.	26.	25.	23.	20.
2-1/4"	41.	38.	33.	31.	29.	25.

(A) - Socket or swaged terminal attachment.  
 (B) - Mechanical sleeve attachment.  
 (C) - Hand tucked splice attachment.

**TABLE G-3**

**RATED CAPACITIES FOR  
IMPROVED PLOW STEEL,  
INDEPENDENT WIRE ROPE CORE,  
WIRE ROPE SLINGS  
(in tons of 2000 pounds)**

[Codification note: The graphic presentation of this table has been varied slightly in order that it would fall within the printing specifications for the Washington Administrative Code. The following table was too wide to be accommodated in the width of the WAC column. The table as codified has been divided into two tables covering the "TWO—LEG BRIDLE OR BASKET HITCH" for 6x19 Classification and for 6x37 Classification. Part One has Rope Diameter in Inches for Vertical and 60° within the two classifications. Part Two has Rope Diameter in Inches for 45° and 30° within the two classifications.]

**TWO - LEG BRIDLE OR BASKET HITCH  
(TABLE G-3: Part 1—Vertical and 60° Positions)**

Rope Dia. Inches	Vertical			60°		
	A	B	C	A	B	C
	<b>6X19 CLASSIFICATION</b>					
1/4"	1.2	1.1	1.0	1.0	.97	.92
3/8"	2.6	2.5	2.3	2.3	2.1	2.0
1/2"	4.6	4.4	3.9	4.0	3.8	3.4
5/8"	7.2	6.8	6.0	6.2	5.9	5.2
3/4"	10.	9.7	8.4	8.9	8.4	7.3
7/8"	14.	13.	11.	12.	11.	9.6
1"	18.	17.	14.	15.	15.	12.
1-1/8"	23.	21.	18.	19.	18.	16.
<b>6X37 CLASSIFICATION</b>						
1-1/4"	26.	24.	21.	23.	21.	18.
1-3/8"	32.	29.	25.	28.	25.	22.
1-1/2"	38.	35.	30.	33.	30.	26.
1-3/4"	51.	47.	41.	44.	41.	35.
2"	66.	61.	53.	57.	53.	46.
2-1/4"	83.	76.	66.	72.	66.	57.

Rope Dia. Inches	TWO - LEG BRIDLE OR BASKET HITCH (TABLE G-3: Part 2—45° and 30° Positions)					
	45°			30°		
	A	B	C	A	B	C
<b>6X19 CLASSIFICATION</b>						
1/4"	.83	.79	.75	.59	.56	.53
3/8"	1.8	1.8	1.6	1.3	1.2	1.1
1/2"	3.2	3.1	2.8	2.3	2.2	2.0
5/8"	5.1	4.8	4.2	3.6	3.4	3.0
3/4"	7.2	6.9	5.9	5.1	4.9	4.2
7/8"	9.8	9.3	7.8	6.9	6.6	5.5
1"	13.	12.	10.	9.0	8.5	7.2
1-1/8"	16.	15.	13.	11.	10.	9.0
<b>6X37 CLASSIFICATION</b>						
1-1/4"	19.	17.	15.	13.	12.	10.
1-3/8"	22.	21.	18.	16.	15.	13.
1-1/2"	27.	25.	21.	19.	17.	15.
1-3/4"	36.	33.	29.	26.	24.	20.
2"	47.	43.	37.	33.	30.	26.
2-1/4"	58.	54.	47.	41.	38.	33.

(A) - Socket or swaged terminal attachment.  
 (B) - Mechanical sleeve attachment.  
 (C) - Hand tucked splice attachment.

**TABLE G-4**

**RATED CAPACITIES FOR  
IMPROVED PLOW STEEL,  
FIBER CORE, WIRE ROPE AND  
WIRE ROPE SLINGS  
(in tons of 2000 pounds)**

Rope Dia. Inches	SINGLE LEG					
	Vertical			Choker		
	A	B	C	A	B	C
<b>6X19 CLASSIFICATION</b>						
1/4"	.55	.51	.49	.41	.38	.37
3/8"	1.2	1.1	1.1	.91	.85	.80
1/2"	2.1	2.0	1.8	1.6	1.5	1.4
5/8"	3.3	3.1	2.8	2.5	2.3	2.1
3/4"	4.8	4.4	3.9	3.6	3.3	2.9
7/8"	6.4	5.9	5.1	4.8	4.5	3.9
1"	8.4	7.7	6.7	6.3	5.8	5.0
1-1/8"	10.	9.5	8.4	7.9	7.1	6.3
<b>6X37 CLASSIFICATION</b>						
1-1/4"	12.	11.	9.8	9.2	8.3	7.4
1-3/8"	15.	13.	12.	11.	10.	8.9
1-1/2"	17.	16.	14.	13.	12.	10.
1-3/4"	24.	21.	19.	18.	16.	14.
2"	31.	28.	25.	23.	21.	18.

(A) - Socket or swaged terminal attachment.  
 (B) - Mechanical sleeve attachment.  
 (C) - Hand tucked splice attachment.

**TABLE G-5**

**RATED CAPACITIES FOR IMPROVED PLOW  
STEEL, FIBER CORE, WIRE ROPE SLINGS**  
(in tons of 2000 pounds)

[Codification note: The graphic presentation of this table has been varied slightly in order that it would fall within the printing specifications for the Washington Administrative Code. The following table was too wide to be accommodated in the width of the WAC column. The table as codified has been divided into two tables covering the "TWO - LEG BRIDLE OR BASKET HITCH" for 6x19 Classification and for 6x37 Classification. Part One has Rope Diameter in Inches for Vertical and 60° within the two classifications. Part Two has Rope Diameter in Inches for 45° and 30° within the two classifications.]

**TWO - LEG BRIDLE OR BASKET HITCH**  
(TABLE G-5: Part 1—Vertical and 60° Positions)

Rope Dia. Inches	Vertical			60°		
	A	B	C	A	B	C
<b>6X19 CLASSIFICATION</b>						
1/4	1.1	1.0	.99	.95	.88	.85
3/8	2.4	2.2	1.9	2.1	1.9	1.8
1/2	4.3	3.9	3.7	3.7	3.4	3.2
5/8	6.7	6.2	5.6	5.8	5.3	4.8
3/4	9.5	8.8	7.8	8.2	7.6	6.8
7/8	13.	12.	10.	11.	10.	8.9
1	17.	15.	13.	14.	13.	11.
1-1/8	21.	19.	17.	18.	16.	14.

**6X37 CLASSIFICATION**

Rope Dia. Inches	45°			30°		
	A	B	C	A	B	C
<b>6X19 CLASSIFICATION</b>						
1-1/4	25.	22.	20.	21.	19.	17.
1-3/8	30.	27.	24.	26.	23.	20.
1-1/2	35.	23.	28.	30.	27.	24.
1-3/4	48.	43.	38.	41.	37.	33.
2	62.	55.	49.	53.	48.	43.

**TWO - LEG BRIDLE OR BASKET HITCH**  
(TABLE G-5: Part 2—45° and 30° Positions)

Rope Dia. Inches	45°			30°		
	A	B	C	A	B	C
<b>6X19 CLASSIFICATION</b>						
1/4	.77	.72	.70	.55	.51	.49
3/8	1.7	1.6	1.5	1.2	1.1	1.1
1/2	3.0	2.8	2.6	2.1	2.0	1.8
5/8	4.7	4.4	4.0	3.3	3.1	2.8
3/4	6.7	6.2	5.5	4.8	4.4	3.9
7/8	9.1	8.4	7.3	6.4	5.9	5.1
1	12.	11.	9.4	8.4	7.7	6.7
1-1/8	15.	13.	12.	10.	9.5	8.4

<b>6X37 CLASSIFICATION</b>						
1-1/4	17.	16.	14.	12.	11.	9.8
1-3/8	21.	19.	17.	15.	13.	12.
1-1/2	25.	22.	20.	17.	16.	14.
1-3/4	34.	30.	27.	24.	21.	19.
2	43.	39.	35.	31.	28.	25.

(A) - Socket or swaged terminal attachment.

(B) - Mechanical sleeve attachment.

(C) - Hand tucked splice attachment.

**TABLE G-6**

**NUMBER AND SPACING OF U-BOLT WIRE  
ROPE CLIPS**

**Number of Clips**

Improved prow steel rope diameter inches	Drop forged	Other material	Minimum spacing (inches)
*	...	...	...
1/2 .....	3	4	3
5/8 .....	3	4	3 3/4
3/4 .....	4	5	4 1/2
7/8 .....	4	5	5 1/4
1 .....	4	6	6
1 1/8 .....	5	6	6 3/4
1 1/4 .....	5	7	7 1/2
1 3/8 .....	6	7	8 1/4
1 1/2 .....	6	8	9

\*Three clips shall be used on wire size less than 1/2-inch diameter.

**TABLE G-7****WROUGHT IRON CHAIN**

(in pounds or tons of 2000 pounds)

Nominal Size Chain Stock Inch	Single Leg	60°	45°	30°
* 1/4	1060	1835	1500	1060
* 5/16	1655	2865	2340	1655
3/8	2385	2.1	3370	2385
* 7/16	3250	2.8	2.3	3250
1/2	12.1	13.7	13.0	12.1
* 9/16	12.7	14.6	13.8	12.7
5/8	13.3	15.7	14.7	13.3
3/4	14.8	18.3	16.7	14.8
7/8	16.5	11.2	19.2	16.5
1	18.5	14.7	12.0	18.5
1-1/8	10.0	17.3	14.2	10.0
1-1/4	12.4	21.4	17.5	12.4
1-3/8	15.0	25.9	21.1	15.0
1-1/2	17.8	30.8	25.2	17.8
1-5/8	20.9	36.2	29.5	20.9
1-3/4	24.2	42.0	34.3	24.2
1-7/8	27.6	47.9	39.1	27.6
2	31.6	54.8	44.8	31.6

\*These sizes of wrought iron chain are no longer manufactured in the United States.

**TABLE G-8****ALLOY STEEL CHAIN  
(in tons of 2000 pounds)**

Nominal Size Chain Stock Inch	Single Leg	60°	45°	30°
<u>1/4</u>	<u>1.62</u>	<u>2.82</u>	<u>2.27</u>	<u>1.62</u>
<u>3/8</u>	<u>3.30</u>	<u>5.70</u>	<u>4.65</u>	<u>3.30</u>
<u>1/2</u>	<u>5.62</u>	<u>9.75</u>	<u>7.90</u>	<u>5.62</u>
<u>5/8</u>	<u>8.25</u>	<u>14.25</u>	<u>11.65</u>	<u>8.25</u>
<u>3/4</u>	<u>11.5</u>	<u>19.9</u>	<u>16.2</u>	<u>11.5</u>
<u>7/8</u>	<u>14.3</u>	<u>24.9</u>	<u>20.3</u>	<u>14.3</u>
<u>1</u>	<u>19.3</u>	<u>33.4</u>	<u>27.3</u>	<u>19.8</u>
<u>1-1/8</u>	<u>22.2</u>	<u>38.5</u>	<u>31.5</u>	<u>22.2</u>
<u>1-1/4</u>	<u>28.7</u>	<u>49.7</u>	<u>40.5</u>	<u>28.7</u>
<u>1-3/8</u>	<u>33.5</u>	<u>58.0</u>	<u>47.0</u>	<u>33.5</u>
<u>1-1/2</u>	<u>39.7</u>	<u>68.5</u>	<u>56.0</u>	<u>39.7</u>
<u>1-5/8</u>	<u>42.5</u>	<u>73.5</u>	<u>59.5</u>	<u>42.5</u>
<u>1-3/4</u>	<u>47.0</u>	<u>81.5</u>	<u>62.0</u>	<u>47.0</u>

**TABLE G-9**  
**MAXIMUM ALLOWABLE WEAR AT  
ANY POINT OF LINK**

Chain size in inches	Maximum allowable wear in fraction of inches
<u>1/4 (9/32)</u>	<u>3/64</u>
<u>3/8</u>	<u>5/64</u>
<u>1/2</u>	<u>7/64</u>
<u>5/8</u>	<u>9/64</u>
<u>3/4</u>	<u>5/32</u>
<u>7/8</u>	<u>1/64</u>
<u>1</u>	<u>3/16</u>
<u>1 1/8</u>	<u>7/32</u>
<u>1 1/4</u>	<u>1/4</u>
<u>1 3/8</u>	<u>9/32</u>
<u>1 1/2</u>	<u>5/16</u>
<u>1 3/4</u>	<u>1/32</u>

**TABLE G-10****SAFE WORKING LOADS FOR SHACKLES  
(in tons of 2,000 pounds)**

Material size (inches)	Pin diameter (inches)	Safe working load
<u>1/2</u>	<u>5/8</u>	<u>1.4</u>
<u>5/8</u>	<u>3/4</u>	<u>2.2</u>
<u>3/4</u>	<u>7/8</u>	<u>3.2</u>
<u>7/8</u>	<u>1</u>	<u>4.3</u>
<u>1</u>	<u>1 1/8</u>	<u>5.6</u>
<u>1 1/8</u>	<u>1 1/4</u>	<u>6.7</u>

Material size (inches)	Pin diameter (inches)	Safe working load
<u>1 1/4</u>	<u>1 3/8</u>	<u>1 3/8</u>
<u>1 3/8</u>	<u>1 1/2</u>	<u>10.0</u>
<u>1 1/2</u>	<u>1 5/8</u>	<u>11.9</u>
<u>1 3/4</u>	<u>2</u>	<u>16.2</u>
<u>2</u>	<u>2 1/4</u>	<u>21.2</u>

**AMENDATORY SECTION** (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-07013 Qualifications of operators.** (1) When ship's gear is used to hoist materials aboard, a competent person shall determine that the gear is properly rigged, that it is in safe condition, and that it will not be overloaded by the size and weight of the lift.

(2) Only those employees who understand the signs, notices, and operating instructions, and are familiar with the signal code in use, shall be permitted to operate a crane, winch, or other power operated hoisting apparatus.

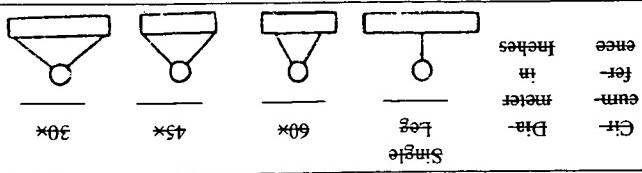
(3) No employee known to have defective uncorrected eyesight or hearing, or to be suffering from heart disease, epilepsy, or similar ailments which may suddenly incapacitate him, shall be permitted to operate a crane, winch or other power operated hoisting apparatus.

(4) No minor under eighteen years of age shall be employed in occupations involving the operation of any power-driven hoisting apparatus or assisting in such operations by work such as hooking on, loading slings, rigging gear, etc.

**((TABLE E-1)****DIMENSIONS AND SPACING OF WOOD  
INDEPENDENT POLE SCAFFOLD MEMBERS**

Structural Members	Light duty (Up to 25 pounds per square foot)			Heavy duty (25 to 75 pounds per square foot)		
	Height in feet			Height in feet		
	24 or less	24-40	40-60	24 or less	24-40	40-60
Poles or uprights (in inches)	2x4	3x4 or 2x6	4x4	3x4	4x4	4x6
Bearers (in inches)	2x4	2x6	2x6	2x8	2x8	2x10
Ledgers (in inches)	2x6	2x6	2x6	2x8	2x8	2x8
Stringer (not support- ing bearers) (in inches)	1x6	1x6	1x6	1x6	1x6	1x6
Braces (in inches)	1x4	1x6	1x6	1x6	1x6	1x6
Pole spacing—longi- tudinally (in feet)	7 1/2	7 1/2	7 1/2	7	7	7
Pole spacing—trans- versely (in feet)	6 1/2 min	7 1/2 min	8 1/2 min	6 1/2	10	10
Ledger spacing—verti- cally (in feet)	7	7	7	4 1/2	4 1/2	4 1/2

SPECFICATI0NS FOR THE CONSTRUCTION OF HORSES					
Member	Streeturi	Height in feet	Length to 10	10 to 16	16 to 20
Legs	Members	Members	Members	Members	Members
2	5/8	880	1520	1240	880
2-1/4	3/4	1080	1870	1520	1080
2-1/2	13/16	1300	2250	1830	1300
2-3/4	7/8	1540	2660	2170	1540
3	4	1800	3120	2540	1800
3-1/4	11/8	42	24	17	12
3-1/2	11/16	1.0 tons	1.7 tons	1.4 tons	1.0 tons
4	15/16	15	23	19	13
4-1/2	11/2	15	23	21	15
5	13/8	48	31	25	18
5-1/2	11/4	12	21	17	12
6	2	31	26	21	16
6-1/2	2-1/8	36	62	54	36
RAILED CAPACITIES FOR IMPROVED PLOW					
STEEL, INDEPENDENT WIRE ROPE STINGS					
WIRE ROPE AND WIRE ROPE STINGS					
(in tons of 2000 pounds)					
SINGLE LINE					
Rope					
Holes					
E					
A					
B					
C					
D					
E					
6X19 CLASSIFICATION					
6X37 CLASSIFICATION					
1/4	120 lbs.	204 lbs.	170 lbs.	120 lbs.	
3/4	44	44	38	33	34
2	33	30	26	25	20
4-3/4	26	24	20	19	15
11/2	19	17	15	14	11
13/8	16	15	13	12	11
11/4	13	12	10	9-3	9-6
1-1/4	10	9-3	9-2	9-2	7-9
(A) SELECTED SWAGED TERMINAL ATTACHMENT					
(B) MECHANICAL SLEEVE ATTACHMENT					
(C) HAND TIEKED SPLICE ATTACHMENT					



Member	Di-a	Single	60x	45x	30x
4-3/4	11/16	690	1190	973	690
5-1/2	11/2	530	945	798	530
6-1/4	15/32	450	775	635	450
7-1/8	3/8	270	467	380	270
7-1/4	7/16	200	346	282	200
8-1/8	5/16	120	204	165	120
8-1/4	3/4	44	110	70	44
9-1/2	11/2	450	775	635	450
10-1/2	15/32	450	775	635	450
11-1/4	7/16	270	467	380	270
11-1/8	5/16	200	346	282	200
12-1/4	3/4	44	110	70	44
13-1/2	11/2	450	775	635	450
14-1/4	7/16	270	467	380	270
15-1/2	5/16	200	346	282	200
16-1/4	3/4	44	110	70	44
17-1/2	11/2	450	775	635	450
18-1/4	7/16	270	467	380	270
19-1/2	5/16	200	346	282	200
20-1/4	3/4	44	110	70	44
21-1/2	11/2	450	775	635	450
22-1/4	7/16	270	467	380	270
23-1/2	5/16	200	346	282	200
24-1/4	3/4	44	110	70	44
25-1/2	11/2	450	775	635	450
26-1/4	7/16	270	467	380	270
27-1/2	5/16	200	346	282	200
28-1/4	3/4	44	110	70	44
29-1/2	11/2	450	775	635	450
30-1/4	7/16	270	467	380	270
31-1/2	5/16	200	346	282	200
32-1/4	3/4	44	110	70	44
33-1/2	11/2	450	775	635	450
34-1/4	7/16	270	467	380	270
35-1/2	5/16	200	346	282	200
36-1/4	3/4	44	110	70	44
37-1/2	11/2	450	775	635	450
38-1/4	7/16	270	467	380	270
39-1/2	5/16	200	346	282	200
40-1/4	3/4	44	110	70	44
41-1/2	11/2	450	775	635	450
42-1/4	7/16	270	467	380	270
43-1/2	5/16	200	346	282	200
44-1/4	3/4	44	110	70	44
45-1/2	11/2	450	775	635	450
46-1/4	7/16	270	467	380	270
47-1/2	5/16	200	346	282	200
48-1/4	3/4	44	110	70	44
49-1/2	11/2	450	775	635	450
50-1/4	7/16	270	467	380	270
51-1/2	5/16	200	346	282	200
52-1/4	3/4	44	110	70	44
53-1/2	11/2	450	775	635	450
54-1/4	7/16	270	467	380	270
55-1/2	5/16	200	346	282	200
56-1/4	3/4	44	110	70	44
57-1/2	11/2	450	775	635	450
58-1/4	7/16	270	467	380	270
59-1/2	5/16	200	346	282	200
60-1/4	3/4	44	110	70	44
61-1/2	11/2	450	775	635	450
62-1/4	7/16	270	467	380	270
63-1/2	5/16	200	346	282	200
64-1/4	3/4	44	110	70	44
65-1/2	11/2	450	775	635	450
66-1/4	7/16	270	467	380	270
67-1/2	5/16	200	346	282	200
68-1/4	3/4	44	110	70	44
69-1/2	11/2	450	775	635	450
70-1/4	7/16	270	467	380	270
71-1/2	5/16	200	346	282	200
72-1/4	3/4	44	110	70	44
73-1/2	11/2	450	775	635	450
74-1/4	7/16	270	467	380	270
75-1/2	5/16	200	346	282	200
76-1/4	3/4	44	110	70	44
77-1/2	11/2	450	775	635	450
78-1/4	7/16	270	467	380	270
79-1/2	5/16	200	346	282	200
80-1/4	3/4	44	110	70	44
81-1/2	11/2	450	775	635	450
82-1/4	7/16	270	467	380	270
83-1/2	5/16	200	346	282	200
84-1/4	3/4	44	110	70	44
85-1/2	11/2	450	775	635	450
86-1/4	7/16	270	467	380	270
87-1/2	5/16	200	346	282	200
88-1/4	3/4	44	110	70	44
89-1/2	11/2	450	775	635	450
90-1/4	7/16	270	467	380	270
91-1/2	5/16	200	346	282	200
92-1/4	3/4	44	110	70	44
93-1/2	11/2	450	775	635	450
94-1/4	7/16	270	467	380	270
95-1/2	5/16	200	346	282	200
96-1/4	3/4	44	110	70	44
97-1/2	11/2	450	775	635	450
98-1/4	7/16	270	467	380	270
99-1/2	5/16	200	346	282	200
100-1/4	3/4	44	110	70	44
101-1/2	11/2	450	775	635	450
102-1/4	7/16	270	467	380	270
103-1/2	5/16	200	346	282	200
104-1/4	3/4	44	110	70	44
105-1/2	11/2	450	775	635	450
106-1/4	7/16	270	467	380	270
107-1/2	5/16	200	346	282	200
108-1/4	3/4	44	110	70	44
109-1/2	11/2	450	775	635	450
110-1/4	7/16	270	467	380	270
111-1/2	5/16	200	346	282	200
112-1/4	3/4	44	110	70	44
113-1/2	11/2	450	775	635	450
114-1/4	7/16	270	467	380	270
115-1/2	5/16	200	346	282	200
116-1/4	3/4	44	110	70	44
117-1/2	11/2	450	775	635	450
118-1/4	7/16	270	467	380	270
119-1/2	5/16	200	346	282	200
120-1/4	3/4	44	110	70	44
121-1/2	11/2	450	775	635	450
122-1/4	7/16	270	467	380	270
123-1/2	5/16	200	346	282	200
124-1/4	3/4	44	110	70	44
125-1/2	11/2	450	775	635	450
126-1/4	7/16	270	467	380	270
127-1/2	5/16	200	346	282	200
128-1/4	3/4	44	110	70	44
129-1/2	11/2	450	775	635	450
130-1/4	7/16	270	467	380	270
131-1/2	5/16	200	346	282	200
132-1/4	3/4	44	110	70	44
133-1/2	11/2	450	775	635	450
134-1/4	7/16	270	467	380	270
135-1/2	5/16	200	346	282	200
136-1/4	3/4	44	110	70	44
137-1/2	11/2	450	775	635	450
138-1/4	7/16	270	467	380	270
139-1/2	5/16	200	346	282	200
140-1/4	3/4	44	110	70	44
141-1/2	11/2	450	775	635	450
142-1/4	7/16	270	467	380	270
143-1/2	5/16	200	346	282	200
144-1/4	3/4	44	110	70	44
145-1/2	11/2	450	775	635	450
146-1/4	7/16	270	467	380	270
147-1/2	5/16	200	346	282	200
148-1/4	3/4	44	110	70	44
149-1/2	11/2	450	775	635	450
150-1/4	7/16	270	467	380	270
151-1/2	5/16	200	346	282	200
152-1/4	3/4	44	110	70	44
153-1/2	11/2	450	775	635	450
154-1/4	7/1				

TABLE G-3						TABLE G-4						
RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS						RATED CAPACITIES FOR IMPROVED PLOW STEEL, FIBER CORE, WIRE ROPE AND WIRE ROPE SLINGS						
TABLE G-3 CLASSIFICATION						TABLE G-4 CLASSIFICATION						
Repe Diia. Inches	A B C	Veretia Diia. Inches	A B C	Repe Diia. Inches	A B C	Repe Diia. Inches	A B C	Repe Diia. Inches	A B C	Repe Diia. Inches	A B C	
2 1/4"	58.	54.	44.	44.	38.	33.	60x	2 1/4"	58.	54.	44.	38.
3/8"	38.	34.	24.	24.	34.	33.		3/8"	38.	34.	24.	34.
1/4"	34.	31.	21.	21.	31.	30.		1/4"	34.	31.	21.	31.
1/2"	26.	24.	14.	14.	26.	25.		1/2"	26.	24.	14.	25.
3/4"	22.	21.	12.	12.	22.	21.		3/4"	22.	21.	12.	21.
1 1/2"	18.	16.	10.	10.	18.	15.		1 1/2"	18.	16.	10.	15.
2 1/2"	14.	13.	8.	8.	14.	13.		2 1/2"	14.	13.	8.	13.
3 1/2"	10.	9.	5.	5.	10.	9.		3 1/2"	10.	9.	5.	9.
4 1/2"	6.	5.	3.	3.	6.	5.		4 1/2"	6.	5.	3.	5.
5 1/2"	3.	2.	1.	1.	3.	2.		5 1/2"	3.	2.	1.	2.
6 1/2"	1.	1.	0.	0.	1.	1.		6 1/2"	1.	1.	0.	1.

TABLE G-3 CLASSIFICATION						TABLE G-4 CLASSIFICATION						
Repe Diia. Inches	A B C	Veretia Diia. Inches	A B C	Repe Diia. Inches	A B C	Repe Diia. Inches	A B C	Repe Diia. Inches	A B C	Repe Diia. Inches	A B C	
1 1/8"	16.	15.	13.	13.	11.	11.	60x	2 1/4"	47.	43.	37.	33.
1 3/4"	36.	33.	25.	25.	29.	26.		3 1/4"	36.	24.	24.	24.
2 1/2"	22.	21.	18.	18.	16.	15.		4 1/2"	22.	21.	18.	18.
3 1/8"	18.	16.	10.	10.	9.	8.		5 1/8"	18.	16.	10.	9.
4 1/4"	19.	17.	15.	15.	14.	12.		6 1/4"	19.	17.	15.	14.
5 1/4"	54.	48.	32.	32.	42.	36.		7 1/4"	54.	48.	32.	36.
6 1/2"	32.	31.	28.	28.	31.	27.		8 1/2"	32.	31.	28.	27.
7 1/2"	22.	21.	18.	18.	21.	17.		9 1/2"	22.	21.	18.	17.
8 1/2"	18.	17.	14.	14.	18.	15.		10 1/2"	18.	17.	14.	15.
9 1/2"	14.	13.	11.	11.	14.	12.		11 1/2"	14.	13.	11.	12.
10 1/2"	10.	9.	8.	8.	10.	8.		12 1/2"	10.	9.	8.	8.
11 1/2"	6.	5.	4.	4.	6.	5.		13 1/2"	6.	5.	4.	4.
12 1/2"	2.	2.	1.	1.	2.	1.		14 1/2"	2.	2.	1.	1.



Nominal Size Chain Stock Inch	Single Leg	60×	45×	30×
1-1/4	28.7	49.7	40.5	28.7
1-3/8	33.5	58.0	47.0	33.5
1-1/2	39.7	68.5	56.0	39.7
1-5/8	42.5	73.5	59.5	42.5
1-3/4	47.0	81.5	62.0	47.0

TABLE G-9

MAXIMUM ALLOWABLE WEAR AT  
ANY POINT OF LINK

Chain size in inches	Maximum allowable wear in fraction of inches
1/4 (9/32)	3/64
3/8	5/64
1/2	7/64
5/8	9/64
3/4	5/32
7/8	11/64
1	3/16
1-1/8	7/32
1-1/4	1/4
1-3/8	9/32
1-1/2	5/16
1-3/4	11/32

TABLE G-10

SAFE WORKING LOADS FOR SHACKLES  
(in tons of 2,000 pounds)

Material size (inches)	Pin diameter (inches)	Safe working load
1/2	5/8	1.4
5/8	3/4	2.2
3/4	7/8	3.2
7/8	1	4.3
1	1-1/8	5.6
1-1/8	1-1/4	6.7
1-1/4	1-3/8	8.2
1-3/8	1-1/2	10.0
1-1/2	1-5/8	11.9
1-3/4	2	16.2
2	2-1/4	21.2

TABLE IIA

FILTER LENSES FOR PROTECTION AGAINST  
RADIANT ENERGY

OPERATIONS	ELECTRODE SIZE 1/32 IN	ARC CURRENT	MINIMUM PROTECTIVE SHADE
Shielded metal arc-welding	Less than 3	Less than 60	7
	3-5	60-160	8
	5-8	160-250	10
More than 8		250-550	11
		Less than 60	7
		60-160	10
Gas metal arc welding and flux cored arc welding		160-250	10
		250-550	10
		Less than 60	7
Gas Tungsten arc welding		50-150	8
		150-500	10
		Less than 50	8
Air carbon arc cutting	(Light)	Less than 500	10
	(Heavy)	500-1000	11
		Less than 20	6
Plasma arc welding		20-100	8
		100-400	10
		400-800	11
Plasma arc cutting	(Light) **	Less than 300	8
	(Medium) **	300-400	9
	(Heavy) **	400-800	10
Torch brazing	—	—	3
Torch soldering	—	—	2
Carbon Arc welding	—	—	14

\*\*These values apply where the actual arc is clearly seen. Lighter filters may be used when the arc is hidden by the workplace.

TABLE IIB

FILTER LENSES FOR PROTECTION AGAINST  
RADIANT ENERGY

OPERATIONS	PLATE THICKNESS... INCHES	PLATE THICKNESS... MM	MINIMUM* PROTECTIVE SHADE
Gas welding			
Light	Under 1/8	Under 3.2	4
Medium	1/8-1/2	3.2-12.7	5
Heavy	Over 1/2	Over 12.7	6
Oxygen cutting			
Light	Under 1	Under 25	3
Medium	1-6	25-100	4
Heavy	Over 6	Over 150	5

\*As rule of thumb, start with a shade that is too dark to see the weld-zone. Then go to a lighter shade which gives sufficient view of the weld zone without going below the minimum. In oxyfuel gas welding or cutting where the torch produces a high yellow light, it is desirable to use a filter lens that absorbs the yellow or sodium line in the visible light of the (spectrum) operation.)

**AMENDATORY SECTION** (Amending Order 76-7, filed 3/1/76)

**WAC 296-304-08001 General precautions.** (1) Hand lines, slings, tackles of adequate strength, or carriers such as tool bags with shoulder straps shall be provided and used to handle tools, materials, and equipment so that employees will have their hands free when using ship's ladders and access ladders. The use of hose or electric cords for this purpose is prohibited.

(2) When air tools of the reciprocating type are not in use, the discs and tools shall be removed.

(3) All portable, power-driven circular saws shall be equipped with guards above and below the base plate or shoe. The upper guard shall cover the saw to the depth of the teeth, except for the minimum arc required to permit the base to be tilted for bevel cuts. The lower guard shall cover the saw to the depth of the teeth, except for the minimum arc required to allow proper retraction and contact with the work. When the tool is withdrawn from the work, the lower guard shall automatically and instantly return to the covering position.

(4) The moving parts of machinery on dry docks shall be guarded.

(5) Before use, pneumatic tools shall be secured to the extension hose or whip by some positive means to prevent the tool from becoming accidentally disconnected from the whip.

(6) The moving parts of drive mechanisms, such as gearing and belting on large portable tools, shall be adequately guarded.

(7) Headers, manifolds, and widely spaced hose connections on compressed air lines shall bear the word "air" in letters at least 1 inch high, which shall be painted either on the manifolds or separate hose connections, or on signs permanently attached to the manifolds or connections. Grouped air connections may be marked in one location.

(8) Before use, compressed air hose shall be examined. Visibly damaged and unsafe hose shall not be used.

**AMENDATORY SECTION** (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-09017 Lifesaving equipment.** (1) Personal flotation devices (PFD).

((a)) The employer must ensure that each personal flotation device (life preservers, life jackets and work vests) worn by an affected employee is:

- United States Coast Guard (USCG) approved and marked Type I PFD, Type II PFD, or Type III PFD; or
- USCG approved Type V PFD, marked for use as a work vest, for commercial use, or for use on vessels.

Note: The requirements for USCG approval are in 46 CFR Part 160, Subpart Q, Coast Guard Lifesaving Equipment Specifications.

((b))) You must provide your employees with PFDs approved by the United States Coast Guard for use on commercial or merchant vessels. The following are appropriate or allowable United States Coast Guard approved PFDs:

Type of PFD	General Description
Type I	Off-shore life jacket - effective for all waters or where rescue may be delayed.
Type II	Near-shore buoyant vest - intended for calm, inland water or where there is a good chance of quick rescue.
Type III	Flootation aid - good for calm, inland water, or where there is a good chance of rescue.
Type V	Flotation aids such as board-sailing vests, deck suits, work vests and inflatable PFDs marked for commercial use.

**Note:**

- Commercially available PFDs are marked or imprinted with the Type of PFD.
- Type IV PFDs are throwable devices. They are used to aid persons who have fallen into the water.
- The requirements for USCG approval are in 46 CFR Part 160, Coast Guard Lifesaving Equipment Specifications.

The employer must ensure that each personal flotation device is inspected before use for dry rot, chemical damage, or other defects that may affect its strength and buoyancy. Defective personal floatation devices shall not be used.

(2) Ring life buoys and ladders.

(a) The employer must ensure that when work is performed on a floating vessel 200 feet (61 m) or more in length, at least three 30-inch (0.76 m) U.S. Coast Guard approved ring life buoys with lines attached are located in readily visible and accessible places. Ring life buoys must be located one forward, one aft, and one at the access to the gangway.

(b) On floating vessels under 200 feet (61 m) in length, at least one 30-inch (0.76 m) U.S. Coast Guard approved ring life buoy with line attached must be located at the gangway.

(c) At least one 30-inch (0.76 m) U.S. Coast Guard approved ring life buoy with a line attached must be located on each staging alongside of a floating vessel on which work is performed.

(d) At least 90 feet ((27 m)) (27.43 m) of line must be attached to each ring life buoy.

(e) There must be at least one portable or permanent ladder near each floating vessel on which work is performed. The ladder must be long enough to help an employee reach safety in the event of a fall into the water.

**AMENDATORY SECTION** (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-09021 Personal fall arrest systems (PFAS).** Personal fall arrest systems must meet the requirements of this section.

(1) The employer must ensure that connectors and anchorages meet the following criteria:

- (a) Connectors are made of drop forged, pressed, or formed steel or of materials with equivalent strength.
- (b) Connectors have a corrosion-resistant finish, and all surfaces and edges are smooth to prevent damage to the interfacing parts of the system.
- (c) D-rings and snap hooks can sustain a minimum tensile load of 5,000 pounds ((~~22.2 Kn~~) (22.24 Kn)).
- (d) D-rings and snap hooks are proof-tested to a minimum tensile load of 3,600 pounds (16 Kn) without cracking, breaking, or being permanently deformed.
- (e) Snap hooks lock and are designed and used to prevent disengagement of the snap hook by contact of the snap hook keeper with the connected part.
- (f) On suspended scaffolds or similar work platforms with horizontal lifelines that may become vertical lifelines, the devices used for connection to the horizontal lifeline can lock in any direction on the lifeline.
- (g) Anchorages used for attachment of personal fall arrest equipment are independent of any anchorage used to support or suspend platforms.
- (h) Anchorages can support at least 5,000 pounds ((~~22.2 Kn~~) (22.24 Kn)) per employee attached, or are designed, installed, and used as follows:
- (i) As part of a complete personal fall arrest system that maintains a safety factor of at least two; and
  - (ii) Under the direction and supervision of a qualified person.
- (2) The employer must ensure that lifelines, lanyards, and personal fall arrest systems meet the following criteria:
- (a) When vertical lifelines are used, each employee has a separate lifeline.
  - (b) Vertical lifelines and lanyards have a minimum tensile strength of 5,000 pounds ((~~22.2 Kn~~) (22.24 Kn)).
  - (c) Self-retracting lifelines and lanyards that automatically limit free fall distances to 2 feet (0.61 m) or less can sustain a minimum tensile load of 3000 pounds ((~~13.3 Kn~~) (13.34 Kn)) applied to a self-retracting lifeline or lanyard with the lifeline or lanyard in the fully extended position.
  - (d) Self-retracting lifelines and lanyards which do not limit free fall distance to 2 feet (0.61 m) or less, ripstitch lanyards and tearing and deforming lanyards can sustain a minimum static tensile load of 5,000 pounds ((~~22.2 Kn~~) (22.24 Kn)) applied to the device when they are in the fully extended position.
  - (e) Horizontal lifelines are designed, installed, and used under the supervision of a qualified person, and only used as part of a complete personal fall arrest system that maintains a safety factor of at least two.

**Note:** The system strength needs below are based on a maximum combined weight of employee and tools of 310 pounds. If combined weight is more than 310 pounds (140.62 kg), appropriate allowances must be made or the system will not be in compliance.

(f) Effective April 20, 1998, the employer must ensure that personal fall arrest systems:

(i) Limit the maximum arresting force on a falling employee to 1,800 pounds (8 Kn) when used with a body harness;

(ii) Bring a falling employee to a complete stop and limit the maximum deceleration distance an employee travels to 3.5 feet (1.07 m); and

(iii) Are strong enough to withstand twice the potential impact energy of an employee free falling a distance of 6 feet (1.8 m), or the free fall distance permitted by the system, whichever is less.

(g) The employer must ensure that personal fall arrest systems are rigged so that an employee can neither free fall more than 6 feet ((~~1.8 m~~) (1.83 m)) nor contact any lower level.

(3) The employer must select, use, and care for systems and system components according to the following requirements:

(a) Lanyards are attached to employees using personal fall arrest systems, as follows:

The attachment point of a body harness is in the center of the wearer's back near the shoulder level, or above the wearer's head. If the maximum free fall distance is less than 20 inches, the attachment point may be located in the chest position.

(b) Ropes and straps (webbing) used in lanyards, lifelines and strength components of body harnesses are made from synthetic fibers or wire rope.

(c) Ropes, harnesses, and lanyards are compatible with their hardware.

(d) Lifelines and lanyards are protected against cuts, abrasions, burns from hot work operations and deterioration by acids, solvents, and other chemicals.

(e) Personal fall arrest systems are inspected before each use for mildew, wear, damage, and other deterioration. Defective components are removed from service.

(f) Personal fall arrest systems and components subjected to impact loading are immediately removed from service and not used again for employee protection until inspected and determined by a qualified persons to be undamaged and suitable for reuse.

(g) The employer must provide for prompt rescue of employees in the event of a fall or must ensure that employees are able to rescue themselves.

(h) Personal fall arrest systems and components are used only for employee fall protection and not to hoist materials.

(4) Training. Before using personal fall arrest equipment, the employer must ensure that each affected employee is trained to understand the application limits of the equipment and proper hook-up, anchoring, and tie-off techniques. Affected employees must also be trained to demonstrate the proper use, inspection, and storage of their equipment.

#### AMENDATORY SECTION (Amending WSR 98-02-006, filed 12/26/97, effective 3/1/98)

**WAC 296-304-09023 Positioning device systems.** The employer must ensure that positioning device systems and their use meet the requirements of this section.

(1) The employer must ensure that connectors and anchorages meet the following criteria:

(a) Connectors have a corrosion-resistant finish, and all surfaces and edges are smooth to prevent damage to interfacing parts of this system.

- (b) Connecting assemblies have a minimum tensile strength of 5,000 pounds ((22.2 Kn)) (22.24 Kn).
- (c) Positioning device systems are secured to an anchorage that can support at least twice the potential impact load of an employee's fall.
- (d) Only locking type snap hooks are used in positioning device systems.

(2) The employer must ensure that positioning device systems meet the following criteria:

(a) Restraint (tether) lines have a minimum breaking strength of 3,000 pounds ((13.3 Kn)) (13.34 Kn).

(b) Beginning April 20, 1998, the following system performance criteria for positioning device systems are met:

(i) A window cleaner's positioning system can withstand without failure, a drop test consisting of a 6-foot (1.83 m) drop of a 250-pound ((113 kg)) (113.34 kg) weight. The system limits the initial arresting force to a maximum of 2,000 pounds (8.89 Kn), with a maximum duration of 2 milliseconds. The system limits any subsequent arresting forces imposed on the falling employee to a maximum of 1,000 pounds (4.45 Kn);

(ii) All other positioning device systems can withstand without failure a drop test consisting of a 4-foot ((1.2 m)) (1.22 m) drop of a 250-pound ((113 kg)) (113.34 kg) weight.

(3) The employer must ensure that a positioning device system is used and cared for according to the following requirements:

(a) Positioning device systems are inspected before each use for mildew, wear, damage, and other deterioration. Defective components are removed from service.

(b) A positioning device system or component subjected to impact loading is immediately removed from service and not used again for employee protection, unless inspected and determined by a qualified person to be undamaged and suitable for reuse.

(4) Training. Before using a positioning device system, the employer must ensure that employees are trained in the application limits, proper hook-up, anchoring and tie-off techniques, methods of use, inspection, and storage of positioning device systems.

#### AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

**WAC 296-304-10003 Ship's piping systems.** ((1)) Before work is performed on a valve, fitting, or section of piping in a piping system where employees may be subject to injury from the direct escape of steam, or water, oil, or other medium at a high temperature, the employer shall insure that the following steps are taken:

((a)) (1) The isolation and shutoff valves connecting the dead system with the live system or systems shall be secured, blanked, and tagged indicating that employees are working on the systems. This tag shall not be removed nor the valves unblanked until it is determined that this may be done without creating a hazard to the employees working on the system, or until the work on the system is completed. Where valves are welded instead of bolted at least two isolation and

shutoff valves connecting the dead system with the live system or systems shall be secured, locked, and tagged.

((b)) (2) Drain connections to the atmosphere on all of the dead interconnecting systems shall be opened for visual observation of drainage.

#### AMENDATORY SECTION (Amending Order 74-25, filed 5/7/74)

#### **WAC 296-304-10007 Ship's deck machinery.** (1)

Before work is performed on the anchor windlass or any of its attached accessories, the employer shall ensure that the following steps are taken:

(a) The devil claws (also known as chain toppers) shall be made fast to the anchor chains.

(b) The riding pawls shall be in the engaged position.

(c) In the absence of devil claws and riding pawls, the anchor chains shall be secured to a suitable fixed structure of the vessel.

**WSR 03-04-101**

**PERMANENT RULES**

#### **HIGHER EDUCATION COORDINATING BOARD**

[Filed February 4, 2003, 3:36 p.m.]

Date of Adoption: February 4, 2003.

Purpose: To amend the rules by detailing priorities for the awarding of the matching grant.

Citation of Existing Rules Affected by this Order: Amending chapter 250-69 WAC.

Statutory Authority for Adoption: RCW 28B.240 and .370 [28B.80.240 and 28B.80.370].

Adopted under notice filed as WSR 02-22-085 on November 5, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 2, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 8, Repealed 1.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 4, 2003

Betty Gebhardt  
Associate Director

**Chapter 250-69 WAC**

**COMMUNITY SCHOLARSHIP ((FOUNDATION DEMONSTRATION PROJECT)) MATCHING GRANT PROGRAM**

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-010 Purpose.** The purpose of the community scholarship ((foundation demonstration project)) matching grant program is to provide ((one-time)) two thousand dollar state-funded matching awards as an incentive to Washington community scholarship foundations to raise money and award scholarships to community residents who wish to pursue higher education. The community scholarship ((foundation)) matching grant program encourages community organizations to generate local dollars to complement efforts funded by the state. In making awards, ((priority shall be given to new organizations formed after the date of this act)) preference will be given to organizations affiliated with the citizens' scholarship foundation. An organization may receive more than one two thousand dollar matching grant per biennium.

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-020 Authority to administer.** As defined in RCW 28B.80.240, the higher education coordinating board is charged with the administration of ((demonstration projects designed to prepare and assist persons to obtain a higher education in this state (as defined by RCW 28B.80.180))) any state program or state administered federal program of student financial aid now or hereafter established.

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-030 Program definitions.** (1) "Matching award" means the state appropriated funding for ((one-time)) two thousand dollar grants available to selected eligible community scholarship foundations that raise at least two thousand dollars for student scholarships.

(2) "Community scholarship foundation" means a non-profit, tax exempt 501 (c)(3) Internal Revenue Service Code, community-based organization, formed in part or in full for the purpose of providing higher education scholarships for local residents.

(3) "Higher education scholarship program" means a program which would provide awards to community residents to attend institutions of higher education in Washington state.

(4) "Washington institutions of higher education" or "institution" means a degree-granting college or university in the state of Washington ((which is a member institution of an accrediting association recognized by rule of the board for the purposes of this chapter, or a Washington public vocational-technical institute)) whose campus or branch campus is physically located in the state of Washington, and who is accred-

ited by a nationally recognized accrediting body. The recognized accrediting bodies are:

- (a) The Northwest Association of Schools and Colleges or a similar regional accrediting body as determined by the board;
- (b) The Accrediting Bureau of Health Education Schools;
- (c) The Accrediting Council for Continuing Education and Training;
- (d) The Accrediting Commission of Career Schools and Colleges of Technology;
- (e) The Accrediting Council for Independent Colleges and Schools;
- (f) The National Accrediting Commission of Cosmetology Arts and Sciences;
- (g) The Middle States Association of Colleges and Schools, Commission on Higher Education;
- (h) The New England Association of Schools and Colleges;
- (i) The North Central Association of Colleges and Schools;
- (j) The Southern Association of Colleges and Schools;
- (k) The Western Association of Schools and Colleges.

(5) "Board" means the higher education coordinating board. When a duty or responsibility of the board is referenced in this chapter, the authority needed to discharge that responsibility lies with the executive director or his or her designee.

(6) "Washington resident" means a resident as defined in RCW ((28B.15.011 through 28B.15.013 and in board adopted rules and regulations pertaining to the determination of residency)) 28B.15.012 (2)(a) through (d) and board adopted rules and regulations pertaining to the determination of Washington state residency.

(7) "New money" means funds raised during a twelve-month period designated and described in the annual program application. These funds cannot include interest income from endowments or interest from other funds raised previous to July 1 of the year of application.

(8) "Permanent and irrevocable scholarship endowment fund" means contributions received and deposited into an investment fund with the permanent purpose of using only the interest earnings from the principal of the contribution for the scholarships.

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-040 Eligibility criteria.** To be eligible to apply for a matching award a community organization must:

(1) Have or establish a higher education scholarship program and, ((after June 30, 1989)) during a twelve-month period designated and described in the annual application, raise at least two thousand dollars in new money for student scholarships;

(2) Obtain and maintain tax exempt status under section 501 (c)(3) of the Internal Revenue Code for the fund supporting the student scholarship program;

(3) Award student scholarships without regard to age, sex, marital status, race, creed, color, religion, national ori-

gin, or the presence of any mental, sensory, or physical handicap; and

(4) ((Have not previously received a matching award from this program;) If the recipient of the matching grant is a college foundation, agree to award student scholarships funded by the grant and the matching money only to graduating students for the specific purpose of continuing their higher education. College foundations must be registered with the attorney general's office under the Charitable Trust Act, chapter 11.110 RCW.

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-050 Application procedure.** Community organizations ((which meet)) meeting eligibility criteria will be considered for selection after they complete an application for the matching award on a form provided by the higher education coordinating board.

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-060 Selection criteria.** Community organizations which meet the eligibility criteria in ((section 040 above)) WAC 250-69-040 and have raised two thousand dollars in new money during the twelve-month period designated and described in the annual application will be selected for a matching award. ((during the demonstration period;)) in the following priority order((:

(1) Organizations which after June 30, 1989, begin a higher education scholarship program, establish a nonprofit, tax-exempt 501(c)(3) Internal Revenue Service Code scholarship foundation, and raise two thousand dollars to be used for student scholarships.

(2) Organizations which have had prior scholarship programs but reorganize after June 30, 1989, to meet the eligibility criteria of the demonstration project and raise two thousand dollars to be used for student scholarships.

(3) Organizations which had scholarship programs and met the eligibility criteria of the program prior to June 30, 1989, and raise an additional two thousand dollars for student scholarships after June 30, 1989.

Among applying organizations, those which (a) solicit broad-based community support in their fund raising activities and are representative of the community in their structure; (b) conduct fund raising activities with volunteers and not with paid or contracted fund raisers; and (c) have a primary focus of awarding scholarships to Washington residents attending Washington institutions of higher education shall be given preference when the number of organizations applying exceeds available matching award funds)). Preference is given to those organizations affiliated with citizens' scholarship foundation.

Priority 1: Eligible organizations that have not previously received the matching grant.

Priority 2: Recipients of the matching grant in previous years that agree to raise new money and place that money and the matching grant into a permanent and irrevocable scholarship endowment fund.

Priority 3: Recipients of the matching grant in previous years that agree to raise new money for student scholarships.

When the number of organizations applying exceeds available matching award funds, those which:

(1) Solicit broad-based community support in their fund-raising activities and are representative of the community in their structure;

(2) Conduct fund-raising activities with volunteers and not with paid or contracted fund raisers; and

(3) Have primary focus of awarding scholarships to Washington residents attending Washington institutions of higher education shall be given further preference.

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-070 Award amount.** The community scholarship foundation matching award is a ((one-time)) two thousand dollar grant based on available funding.

**AMENDATORY SECTION** (Amending WSR 90-09-003, filed 4/5/90, effective 5/6/90)

**WAC 250-69-090 Reporting requirements.** Community organizations will submit, on a form provided by the board, reports of scholarships awarded from their two thousand dollar contribution and the two thousand dollar matching award. Reporting information will include, but is not limited to, recipients names and addresses, scholarship amounts and the higher education institution the recipient plans to attend. Or if the organization receives an endowment matching grant, a report indicating the endowment account number, name, the amount of the matching grant and the community match deposited along with a copy of the deposit receipt from the financial institution.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 250-69-110

Duration of demonstration project.

**WSR 03-04-103**

**PERMANENT RULES**

**DEPARTMENT OF ECOLOGY**

[Order 99-24A—Filed February 4, 2003, 4:24 p.m.]

Date of Adoption: January 10, 2003.

Purpose: To file a correction to WAC 173-350-600 Financial assurance requirements. This correction is to change subsection (1)(b) to the language as proposed, and which was adopted by the director of ecology.

Statutory Authority for Adoption: Chapter 70.95 RCW.

Adopted under notice filed as WSR 02-14-061 on June 27, 2002.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Thirty-one days after filing.

February 4, 2003

Tom Fitzsimmons  
Director

## NEW SECTION

**WAC 173-350-600 Financial assurance requirements.** (1) *Financial assurance requirements - Applicability.* This section is applicable to:

- (a) Waste tires storage facilities regulated under WAC 173-350-350;
- (b) Moderate risk waste facilities regulated under WAC 173-350-360; and
- (c) Limited purpose landfills regulated under WAC 173-350-400.

(2) *Financial assurance requirements - Definitions.* For the purposes of this section, the following definitions apply:

(a) Public facility means a publicly or privately owned facility that accepts solid waste generated by other persons.

(b) Private facility means a privately owned facility maintained on private property solely for the purpose of managing waste generated by the entity owning the site.

(3) *Financial assurance requirements - Instrument options.* Financial assurance options are available, based on facility type as defined in WAC 173-350-600(2), ownership and permittee. Contents of all instruments must be acceptable to the jurisdictional health department. The following instrument options exist:

- (a) Reserve accounts that are managed as either:
  - (i) Cash and investments accumulated and restricted for activities identified in the closure or post-closure plans, with the equivalent amount of fund balance reserved in the fund; or
  - (ii) Cash and investments held in a nonexpendable trust fund.
- (b) Trust funds to receive, manage and disburse funds for activities identified in the approved closure and post-closure plans. Trust funds shall be established with an entity that has authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency.
- (c) Surety bond(s) issued by a surety company listed as acceptable in Circular 570 of the United States Treasury

Department. A standby trust fund for closure or post-closure shall also be established by the owner or operator to receive any funds that may be paid by the operator or surety company. The surety shall become liable for the bond obligation if the owner or operator fails to perform as guaranteed by the bond. The surety may not cancel the bond until at least one hundred twenty days after the owner or operator, the jurisdictional health department and the department have received notice of cancellation. If the owner or operator has not provided alternate financial assurance acceptable under this section within ninety days of the cancellation notice, the surety shall pay the amount of the bond into the standby closure or post-closure trust account. The following types of surety bonds are options:

- (i) Surety bond; or
- (ii) Surety bond guaranteeing that the owner or operator will perform final closure or post-closure activities.

(d) Irrevocable letter of credit issued by an entity which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. Standby trust funds for closure and post-closure shall also be established by the owner or operator to receive any funds deposited by the issuing institution resulting from a draw on the letter of credit. The letter of credit shall be irrevocable and issued for a period of at least one year, and renewed annually, unless the issuing institution notifies the owner or operator, the jurisdictional health department and the department at least one hundred twenty days before the current expiration date. If the owner or operator fails to perform activities according to the closure or post-closure plan and permit requirements, or if the owner or operator fails to provide alternate financial assurance acceptable to the jurisdictional health department within ninety days after notification that the letter of credit will not be extended, the jurisdictional health department may require that the financial institution provide the funds from the letter of credit to the jurisdictional health department to be used to complete the required closure and post-closure activities;

(e) Insurance policies issued by an insurer who is licensed to transact the business of insurance or is eligible as an excess or surplus line insurer in one or more states, the content of which:

(i) Guarantees that the funds will be available to complete those activities identified in the approved closure or post-closure plans;

(ii) Guarantees that the insurer will be responsible for paying out funds for those activities;

(iii) Provides that the insurance is automatically renewable and that the insurer may not cancel, terminate, or fail to renew the policy except for failure to pay the premium;

(iv) Provides that if there is a failure to pay the premium, the insurer may not terminate the policy until at least one hundred twenty days after the notice of cancellation has been received by the owner or operator, the jurisdictional health department and the department;

(v) Provides that termination of the policy may not occur and the policy shall remain in full force and effect if:

(A) The jurisdictional health department determines the facility has been abandoned;

(B) Closure has been ordered by the jurisdictional health department or a court of competent jurisdiction;

(C) The owner or operator has been named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy; or

(D) The premium due is paid;

(vi) The owner or operator is required to maintain the policy in full force and until an alternative financial assurance guarantee is provided or when the jurisdictional health department has verified that closure, and/or post-closure, as appropriate, have been completed in accordance with the approved closure or post-closure plan;

(vii) For purposes of this rule, "captive" insurance companies as defined in WAC 173-350-100, are not an acceptable insurance company.

(f) Financial Test/corporate guarantee allows for a private corporation meeting the financial test to provide a corporate guarantee those activities identified in the closure and post-closure plans will be completed.

(i) To qualify, a private corporation owner or operator shall meet the criteria of either option A or B:

(A) Option A - to pass the financial test under this option the private corporation shall have:

(I) Two of the following three ratios: A ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; or a ratio of current assets to current liabilities greater than 1.5;

(II) Net working capital and tangible net worth each at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(B) Option B - to pass this alternative financial test, the private corporation shall have:

(I) A current rating of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A, or Baa as issued by Moody's;

(II) Tangible net worth at least six times the sum of the current closure and post-closure cost estimates;

(III) Tangible net worth of at least ten million dollars; and

(IV) Assets in the United States amounting to at least ninety percent of its total assets or at least six times the sum of the current closure and post-closure cost estimates.

(ii) The owner or operator's chief financial officer shall provide a corporate guarantee that the corporation passes the financial test at the time the closure plan is filed. This corporate guarantee shall be reconfirmed annually ninety days after the end of the corporation's fiscal year by submitting to the jurisdictional health department a letter signed by the chief financial officer that:

(A) Provides the information necessary to document that the owner or operator passes the financial test;

(B) Guarantees that the funds to finance closure and post-closure activities according to the closure or post-closure plan and permit requirements are available;

(C) Guarantees that closure and post-closure activities will be completed according to the closure or post-closure plan and permit requirements;

(D) Guarantees that within thirty days if written notification is received from the jurisdictional health department that the owner or operator no longer meets the criteria of the financial test, the owner or operator shall provide an alternative form of financial assurance consistent with the requirements of this section;

(E) Guarantees that the owner or operator's chief financial officer will notify in writing the jurisdictional health department and the department within fifteen days any time that the owner or operator no longer meets the criteria of the financial test or is named as debtor in a voluntary or involuntary proceeding under Title 11 U.S.C., Bankruptcy;

(F) Acknowledges that the corporate guarantee is a binding obligation on the corporation and that the chief financial officer has the authority to bind the corporation to the guarantee;

(G) Attaches a copy of the independent certified public accountant's report on examination of the owner or operator's financial statements for the latest completed fiscal year; and

(H) Attaches a special report from the owner or operator's independent certified public accountant (CPA) stating that the CPA has reviewed the information in the letter from the owner or operator's chief financial officer and has determined that the information is true and accurate.

(iii) The jurisdictional health department may, based on a reasonable belief that the owner or operator no longer meets the criteria of the financial test, require reports of the financial condition at any time in addition to the annual report. The jurisdictional health department will specify the information required in the report. If the jurisdictional health department finds, on the basis of such reports or other information, that the owner or operator no longer meets the criteria of the financial test, the owner or operator shall provide an alternative form of financial assurance consistent with the requirements of this section, within thirty days after notification by the jurisdictional health department.

(iv) If the owner or operator fails to perform final closure and, where required, provide post-closure care of a facility covered by the guarantee in accordance with the approved closure and post-closure plans, the guarantor will be required to complete the appropriate activities.

(v) The guarantee will remain in force unless the guarantor sends notice of cancellation by certified mail to the owner or operator, the jurisdictional health department and the department. Cancellation may not occur, however, during the one hundred twenty days beginning on the date of receipt of the notice of cancellation by the owner or operator, the jurisdictional health department and the department.

(vi) If the owner or operator fails to provide alternate financial assurance as specified in this section and obtain the written approval of such alternate assurance from the jurisdictional health department within ninety days after receipt of a notice of cancellation of the guarantee from the guarantor, the guarantor will provide such alternative financial assurance in the name of the owner or operator.

(4) *Financial assurance requirements - Eligible financial assurance instruments.* The financial assurance instruments identified in subsection (3) of this section are available for use based on facility category and whether the permittee is a public or private entity as follows:

(a) For a public facility, as defined in subsection (2) of this section, when the permittee is a public entity, the following options are available:

- (i) Reserve account;
- (ii) Trust account;
- (iii) Surety bond (payment or performance); or
- (iv) Insurance;

(b) For a public facility as defined in subsection (2) of this section, where the permittee is a private entity, the following options are available:

- (i) Trust account;
- (ii) Surety bond (payment or performance);
- (iii) Letter of credit; or
- (iv) Insurance;

(c) For private facilities as defined in subsection (2) of this section, the following options are available:

- (i) Trust account;
- (ii) Surety bond (payment or performance);
- (iii) Letter of credit;
- (iv) Insurance; or
- (v) Financial test/corporate guarantee.

(5) *Financial assurance requirements - Cost estimate for closure.* The owner or operator shall:

(a) Prepare a written closure cost estimate as part of the facility closure plan. The closure cost estimate shall:

(i) Be in current dollars and represent the cost of closing the facility;

(ii) Provide a detailed written estimate, in current dollars, of the cost of hiring a third party to close the facility at any time during the active life when the extent and manner of its operation would make closure the most expensive in accordance with the approved closure plan;

(iii) Project intervals for withdrawal of closure funds from the closure financial assurance instrument to complete the activities identified in the approved closure plan;

(iv) Not reduce by allowance for salvage value of equipment, solid waste, or the resale value of property or land;

(b) Prepare a new closure cost estimate in accordance with (a) of this subsection whenever:

(i) Changes in operating plans or facility design affect the closure plan; or

(ii) There is a change in the expected year of closure that affects the closure plan;

(c) Review the closure cost estimate by March 1st of each calendar year. The review shall be submitted to the jurisdictional health department, with a copy to the department, by April 1st of each calendar year stating that the review was completed and the findings of the review. The review will examine all factors, including inflation, involved in estimating the closure cost. Any cost changes shall be factored into a revised closure cost estimate and submit the revised cost estimate to the jurisdictional health department for review and approval. The jurisdictional health department shall evaluate each cost estimate for completeness, and

may accept, or require a revision of the cost estimate in accordance with its evaluation.

(6) *Financial assurance requirements - Cost estimate for post-closure.* The owner or operator shall:

(a) Prepare a written post-closure cost estimate as part of the facility post-closure plan. The post-closure cost estimate shall:

(i) Be in current dollars and represent the total cost of completing post-closure activities for the facility for a twenty-year post-closure period or a time frame determined by the jurisdictional health department;

(ii) Provide a detailed written estimate, in current dollars, of the cost of hiring a third party to conduct post-closure care for the facility in compliance with the post-closure plan;

(iii) Project intervals for withdrawal of post-closure funds from the post-closure financial assurance instrument to complete the activities identified in the approved post-closure plan; and

(iv) Not reduce by allowance for salvage, value of equipment, or resale value of property or land.

(b) Prepare a new post-closure cost estimate for the remainder of the post-closure care period in accordance with (a) of this subsection, whenever a change in the post-closure plan increases or decreases the cost of post-closure care.

(c) During the operating life of the facility, the owner or operator must review the post-closure cost estimate by March 1st of each calendar year. The review will be submitted to the jurisdictional health department, with a copy to the department by April 1st of each calendar year stating that the review was completed and the finding of the review. The review shall examine all factors, including inflation, involved in estimating the post-closure cost estimate. Any changes in costs shall be factored into a revised post-closure cost estimate. The new estimate shall be submitted to the jurisdictional health department for approval. The jurisdictional health department shall evaluate each cost estimate for completeness, and may accept, or require a revision of the cost estimate in accordance with its evaluation.

(7) *Financial assurance requirements - Closure/post-closure financial assurance account establishment and reporting.*

(a) Closure and post-closure financial assurance funds generated shall be provided to the selected financial assurance instrument at the schedule specified in the closure and post-closure plans, such that adequate closure and post-closure funds will be generated to ensure full implementation of the approved closure and post-closure plans.

(b) The facility owner or operator with systematic deposits shall establish a procedure with the financial assurance instruments trustee for notification of nonpayment of funds to be sent to the jurisdictional health department and the department.

(c) The owner or operator shall file with the jurisdictional health department, no later than April 1st of each year, an annual audit of the financial assurance accounts established for closure and post-closure activities, and a statement of the percentage of user fees, as applicable, diverted to the financial assurance instruments, for the previous calendar year:

(i) For facilities owned and operated by municipal corporations, the financial assurance accounts shall be audited according to the audit schedule of the office of state auditor. A certification of audit completion and summary findings shall be filed with the jurisdictional health department and the department, including during each of the post-closure care years.

(ii) For facilities not owned or operated by municipal corporations:

(A) Annual audits shall be conducted by a certified public accountant licensed in the state of Washington. A certification of audit completion and summary findings shall be filed with the jurisdictional health department and the department, including during each of the post-closure care years.

(B) The audit shall also include, as applicable, calculations demonstrating the proportion of closure or post-closure, completed during the preceding year as specified in the closure and post-closure plans.

(d) Established financial assurance accounts shall not constitute an asset of the facility owner or operator.

(e) Any income accruing to the established financial assurance account(s) will be used at the owner's discretion upon approval of the jurisdictional health department.

(8) *Financial assurance requirements - Fund withdrawal for closure and post-closure activities.*

(a) The owner or operator will withdraw funds from the closure and/or post-closure financial assurance instrument as specified in the approved closure/post-closure plans;

(b) If the withdrawal of funds from the financial assurance instrument exceeds by more than five percent the withdrawal schedule stated in the approved closure and/or post-closure plan over the life of the permit, the closure and/or post-closure plan shall be amended.

(c) After verification by the jurisdictional health department of facility closure, excess funds remaining for closure in a financial assurance account shall be released to the facility owner or operator.

(d) After verification by the jurisdictional health department of facility post-closure, excess funds remaining for post-closure in a financial assurance account shall be released to the facility owner or operator.



**WSR 03-03-115****EMERGENCY RULES****DEPARTMENT OF****SOCIAL AND HEALTH SERVICES**

(Aging and Disability Services Administration)

[Filed January 21, 2003, 3:52 p.m.]

Date of Adoption: January 14, 2003.

**Purpose:** The Division of Developmental Disabilities has been directed by the 2002 Washington state legislature to begin paying an income supplemental, called state supplementary payment (SSP). Implementation of this directive requires amendment of rules in chapters 388-820, 388-825 and 388-850 WAC, as well as adoption of new WAC 388-825-500 through 388-825-600, Division of Development Disabilities state supplemental payment.

**Amended Rules:** WAC 388-820-020 What definitions apply to this chapter?, 388-820-060 Who may receive residential services?, 388-820-120 Who pays for a client's residential services?, 388-825-020 Definitions, 388-825-055 Authorization for services, 388-825-100 Notification, 388-825-120 Adjudicative proceeding, 388-825-180 Eligible persons, 388-825-205 Who is eligible to participate in the family support opportunity program?, 388-825-252 Family support services, 388-825-254 Service need level rates, 388-850-035 Services—Developmental disabilities, and 388-850-045 Funding formula—Developmental disabilities.

**New Rules:** WAC 388-825-500 What is the state supplemental payment that will be administered by the division of development disabilities?, 388-825-505 What are the eligibility requirements for the DDD/SSP program?, 388-825-510 What are the financial eligibility requirements to receive DDD/SSP?, 388-825-515 What are the programmatic requirements for DDD/SSP?, 388-825-520 How often will my eligibility for DDD/SSP be redetermined?, 388-825-525 How will I know if I am eligible to receive a DDD/SSP payment?, 388-825-530 Can I choose not to accept DDD/SSP payments?, 388-825-535 Can I apply for the DDD/SSP program if I am not identified by DDD as eligible for the DDD/SSP program?, 388-825-540 What are my appeal rights if DDD determines that I am not eligible for DDD/SSP?, 388-825-545 How much money will I receive?, 388-825-546 May I voluntarily remove myself from the community alternatives program (CAP) waiver in order to increase the amount of my SSP?, 388-825-550 How often will I receive my DDD/SSP warrant/check?, 388-825-555 Who will the warrant/check be sent to?, 388-825-560 How will the warrant/check be sent?, 388-825-565 When will DDD/SSP begin issuing payments?, 388-825-570 Are there rules restricting how I use my DDD/SSP money?, 388-825-571 May I purchase services from a provider who lives outside the state of Washington?, 388-825-575 What changes must I report to the department?, 388-825-576 Do I have additional responsibilities when I purchase my own services?, 388-825-580 What happens if I do not spend my DDD/SSP money as required by WAC 388-825-570?, 388-825-585 When will the department stop sending my DDD/SSP money?, 388-825-590 What is a representative payee?, 388-825-591 Who can be a representative payee for my DDD/SSP?, 388-825-592 What are the respon-

bilities of the representative payee?, and 388-825-600 Does DSHS make exceptions to the requirements of this chapter?

The department has filed a CR-101 Preproposal statement of inquiry (WSR 02-17-068) and has initiated a rule-making proceeding to adopt permanent rules on this subject matter. These rules supersede emergency rules filed as WSR 02-20-045 on September 25, 2002.

**Citation of Existing Rules Affected by this Order:** Amending WAC 388-820-020, 388-820-060, 388-820-120, 388-825-020, 388-825-055, 388-825-100, 388-825-120, 388-825-180, 388-825-205, 388-825-252, 388-825-254, 388-850-035, and 388-850-045.

**Statutory Authority for Adoption:** RCW 71A.12.030, 71A.10.020.

**Other Authority:** 2001-03 Supplemental Budget, ESSB 6387, (chapter 371, Laws of 2002).

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

**Reasons for this Finding:** The state legislature in adopting ESSB 6387 (chapter 371, Laws of 2002), has directed the Division of Developmental Disabilities to begin paying an income supplement, called state supplementary payment. In its published "Final Budget - Statewide Agency Detail" for ESSB 6387, the legislature also clearly stated its intent that "Beginning July 2002, state supplemental payments will no longer be provided automatically to all persons receiving a federal SSI benefit. SSI recipients will continue to receive their federal benefits and their federally provided annual cost of living increases each January. Some recipients who are dependent on larger state supplements will be provided a transitional state supplemental payment. The remaining amount of state supplemental payments required by federal rules will be used to support low... income families who are struggling to continue to care for children and other relatives with developmental disabilities." Emergency adoption of these rules is necessary to implement ESSB 6387 and the legislature's intent.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 25, Amended 13, Repealed 0.

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted on the Agency's Own Initiative:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted Using Negotiated Rule Making:** New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 25, Amended 13, Repealed 0.

Effective Date of Rule: Immediately.

January 14, 2003  
Bonita H. Jacques  
for Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 01-22-020, filed 10/26/01, effective 1/1/02)

**WAC 388-820-020 What definitions apply to this chapter?** "Agency" means an entity interested in becoming a service provider that offers residential instruction and support services to clients.

"Certification" means the determination by DSHS that an agency or service provider has satisfactorily complied with the requirements outlined in this chapter and in the department contract.

"Client" means a person who:

- ((•)) (1) Has a developmental disability;
- ((•)) (2) Is eligible under RCW 71A.10.020 (for eligibility criteria, see chapter 388-825 WAC); and
- ((•)) (3) Is authorized by DDD to receive residential services outlined in this chapter or privately purchases residential services. (((For eligibility criteria, see chapter 388-825 WAC)))

"Client services" means instruction and support activities that benefit clients, as specified under WAC 388-820-450 through 388-820-510.

"Community alternatives program (CAP)" means a Title XIX Medicaid waiver program that serves a specific number of individuals. This waiver is for particular home- and community-based services not covered under the Medicaid state plan. (See WAC 388-825-170 for more details.)

"Community protection services" (Community Protection Intensive Supported Living Services, or CP-ISLS) means intensive supported living services provided to clients who meet the criteria of "Individual with Community Protection Issues."

"DDD" refers to the division of developmental disabilities at DSHS.

"DSHS" refers to the department of social and health services of Washington state.

"Exceptions" means DSHS' approval of a written request for an exception to a rule in this chapter. (There are no exceptions to RCWs.)

"Group home" means residential services provided in a dwelling that is:

- ((•)) (1) Owned, leased, or rented by an entity other than the client;
- ((•)) (2) Licensed by the applicable state authority; and
- ((•)) (3) Operated by a provider.  
(See WAC 388-820-090 for further details.)

"Group training home" means a certified nonprofit residential facility that provides full-time care, treatment, training, and maintenance for clients, as defined under RCW 71A.22.020(2).

"IFP" refers to individual financial plan. (See WAC 388-820-620.)

"IISP" refers to the individual instruction and support plan for clients. (See WAC 388-820-560 through 388-820-580.)

"Individual with community protection issues" means a client identified by DDD as needing one or more of the following criteria:

((•)) (1) The person has been convicted of or charged with a crime of sexual violence as defined in chapter 71.09 RCW, including, but not limited to, rape, statutory rape, rape of a child, and child molestation;

((•)) (2) The person has been convicted of or charged with acts directed towards strangers or individuals with whom a relationship has been established or promoted for the primary purpose of victimization;

((•)) (3) The person has been convicted of or charged with a sexually violent offense and/or predatory act, and may constitute a future danger;

((•)) (4) The person has not been convicted and/or charged, but has a history of stalking, sexually violent, predatory, and/or opportunistic behavior which demonstrates a likelihood to commit a sexually violent and/or predatory act based on current behaviors that may escalate to violence;

((•)) (5) The person has committed one or more violent crimes, such as murder, attempted murder, arson, first degree assault, kidnapping, or use of a weapon to commit a crime.

"Instruction" means goal-oriented teaching that is designed for acquiring and enhancing skills.

"ISP" refers to the individual service plan for clients. (See WAC 388-820-520 through 388-820-550.)

"Nursing assistant" means a person who is registered or certified by department of health under chapter 18.88A RCW. A nursing assistant performs certain nursing care tasks that are delegated by a registered nurse for a specific client in authorized settings. (See chapter 246-841 WAC for more details.)

"Reprisal" means any negative action taken as retaliation against an employee.

"Residential service" means client services offered by certified service providers.

"Secretary" means the secretary of the department of social and health services or the secretary's designee.

"Service provider" means an agency certified by and contracted with DDD to provide residential services to clients.

"Severity" means the seriousness of an incident. This is determined by the extent to which a client's physical, mental, or psychosocial well-being is or may be compromised or threatened.

"Support" means assistance as requested or needed by a client, based on their abilities, needs, and goals.

"Supported living" means residential services provided to clients living in their own homes, which are owned, rented, or leased by the clients or their legal representatives. (See WAC 388-820-080 for more details.)

"Trust account" means a bank account containing two or more clients' funds where the service provider has the authority to make deposits and withdrawals.

**AMENDATORY SECTION** (Amending WSR 01-22-020, filed 10/26/01, effective 1/1/02)

**WAC 388-820-060 Who may receive residential services?** Clients ((who)) may receive residential services if they are at least eighteen years old and either authorized by DDD ((may receive)) or have an agreement with the service provider to purchase residential services from their own resources.

**AMENDATORY SECTION** (Amending WSR 01-22-020, filed 10/26/01, effective 1/1/02)

**WAC 388-820-120 Who pays for a client's residential services?** (1) DSHS must pay for residential services provided to department-funded clients under department contract at the contracted rate.

(2) ((DSHS must require a client to share the cost of services when mandated by federal or state statute or regulation)) Clients not included in the department contract may purchase services privately through a separate agreement with the service provider.

(3) The service provider must inform DSHS when the ((client)) department-funded clients requires additional supports.

(a) The service provider must submit a written request with justification for additional service hours.

(b) DSHS may approve and provide payment for additional expenses or services.

(c) The service provider must retain a copy of department approval.

(4) For a client who is receiving group home services and support:

(a) The client must pay for cost of care or services from earnings or other financial resources. Clients receiving SSI are responsible only for the cost of room and board.

(b) DSHS may pay for these services only after a department-funded client has used his or her own financial resources.

(c) When a client's guardian or legal representative controls the client's income, estate, or trust fund, they must reimburse the service provider as described in WAC 388-820-120.

(5) Clients receiving supported living services must pay for their own housing, utilities, food, clothing, and other personal and incidental expenses from earnings and other financial resources.

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-020 Definitions. "Abandonment"**

means action or inaction by a person or entity with a duty to care for a vulnerable adult that leaves the vulnerable person without the means or ability to obtain necessary food, clothing, shelter, or health care.

"**Adolescent**" means a DDD eligible child age thirteen through seventeen years.

**"Attendant care"** means provision of physical and/or behavioral support to protect the safety and well being of a client.

**"Best interest"** includes, but is not limited to, client-centered benefits to:

- (1) Prevent regression or loss of skills already acquired;
- (2) Achieve or maintain economic self-support;
- (3) Achieve or maintain self-sufficiency;
- (4) Prevent or remedy neglect, abuse, or exploitation of individuals unable to protect their own interest;
- (5) Preserve or reunite families; and
- (6) Provide the least-restrictive setting that will meet the person's medical and personal needs.

**"Client or person"** means a person the division determines under RCW 71A.16.040 and WAC 388-825-030 eligible for division-funded services.

**"Community support services"** means one or more of the services listed in RCW 71A.12.040 including, but not limited to the following services: Architectural, case management, early childhood intervention, employment, counseling, family support, respite care, information and referral, health services and equipment, therapy services, and residential support.

**"Companion home"** means the same as "**intensive individual supported living support.**"

**"Department"** means the department of social and health services of the state of Washington.

**"Director"** means the director of the division of developmental disabilities.

**"Division or DDD"** means the division of developmental disabilities of the department of social and health services.

**"Emergency"** means a sudden, unexpected occurrence demanding immediate action.

**"Exemption"** means the department's approval of a written request for an exception to a rule in this chapter.

**"Family"** means individuals, of any age, living together in the same household and related by blood, marriage, adoption or as a result of sharing legal custody of a minor child.

**"Family resources coordinator"** means the person who is:

- (1) Recognized by the IDEA Part C lead agency; and
- (2) Responsible for:
  - (a) Providing family resources coordination;
  - (b) Coordinating services across agencies; and
  - (c) Serving as a single contact to help families receiving assistance and services for their eligible children who are under three years of age.

**"ICF/MR"** means a facility certified as an intermediate care facility for the mentally retarded by Title XIX to provide services to the mentally retarded or persons with related conditions.

**"ICF/MR Eligible"** for admission to an ICF/MR means a person is determined by DDD as needing active treatment as defined in CFR 483.440. Active treatment requires:

- (1) Twenty-four hour supervision; and
- (2) Continuous training and physical assistance in order to function on a daily basis due to deficits in the following

areas: Toilet training, personal hygiene, dental hygiene, self-feeding, bathing, dressing, grooming, and communication.

**"Individual"** means a person applying for services from the division.

**"Individual alternative living"** means provision of community-based individualized client training, assistance and/or ongoing support to enable a client to live as independently as possible with minimal services.

(~~"Individual supportive living service" (also known as companion home) means provision of twenty-four hour residential support in a nonlicensed home for one adult person with developmental disabilities.)~~)

**"Intelligence quotient score"** means a full scale score on the Wechsler, or the intelligence quotient score on the Stanford-Binet or the Leiter International Performance Scale.

**"Intensive individual supported living support"** (also known as companion home) means provision of twenty-four hour residential support in a nonlicensed home for no more than one adult person with developmental disabilities in a regular family residence approved and contracted by the department ensuring client health, safety and well-being.

**"Medicaid personal care"** is the provision of medically necessary personal care tasks as defined in chapter 388-15 WAC.

**"Nonresidential programs"** means programs including, but not limited to, county-funded habilitation services.

**"Nursing facility eligible"** means a person is assessed by DDD as meeting the requirements for admission to a licensed nursing home as defined in WAC 388-71-0700 (3) through (5). The person must require twenty-four hour care provided by or under the supervision of a licensed nurse.

**"Other resources"** means resources that may be available to the client, including but not limited to:

- (1) Private insurance;
- (2) Medicaid;
- (3) Indian health care;
- (4) Public school services through the office of the superintendent of public instruction; and
- (5) Services through the department of health.

**"Part C"** means early intervention for children from birth through thirty-five months of age as defined in the Individuals with Disabilities Education Act (IDEA), Part C and 34 CFR, Part 303 and Washington's federally approved grant.

**"Residential habilitation center"** or **"RHC"** means a state-operated facility certified to provide ICF/MR and/or nursing facility level of care for persons with developmental disabilities.

**"RHC capacity"** means the maximum number of eligible persons that can reside in a residential habilitation center without exceeding its 1997 legislated budgeted capacity.

**"Residential programs"** means provision of support for persons in community living situations. Residential programs include DDD certified community residential services and support, both facility-based such as, licensed group homes, and non-facility based, i.e., supportive living, intensive tenant support, and state-operated living alternatives (SOLA). Other residential programs include individual alternative living, intensive individual supportive living services,

adult family homes, adult residential care services, nursing homes, and children's foster homes.

**"Respite care"** means temporary residential services provided to a person and/or the person's family on an emergency or planned basis.

**"Secretary"** means the secretary of the department of social and health services or the secretary's designee.

**"State supplementary payment (SSP)"** is the state paid cash assistance program for certain DDD eligible SSI clients.

**"Vacancy"** means an opening at a RHC, which when filled, would not require the RHC to exceed its 1997 biannually budgeted capacity, minus:

- (1) Twenty-six beds designated for respite care use; and
- (2) Any downsizing related to negotiations with the Department of Justice regarding community placements.

**"Vulnerable adult"** means a person who has a developmental disability as defined under RCW 71A.10.020.

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-055 Authorization of services.** (1) The division's field services section shall be responsible for authorizing state paid services agreed to by the person/family including, but not limited to:

- (a) Placement to and from residential habilitation centers;
- (b) Community residential services;
- (c) Family support services; and
- (d) Nonresidential programs.

(2) The division's authorization of services shall be based on the ((availability of)) services and funding available.

- (a) Persons must meet the programmatic and financial eligibility requirements for the specific services;
- (b) Funding for state paid services is available in the state operating budget; and
- (c) SSP funding is not available to the client. The availability of SSP funding makes the client ineligible for state funding for the same service.

(3) The division will include the following persons when determining authorized services:

- (a) The person;
- (b) The person's parent or guardian and may include:
- (i) The person's advocate; or
- (ii) Other responsible parties.

(4) Per RCW 71A.16.010 the division shall offer adults the choice of admittance to a residential habilitation center if all of the following conditions exist:

- (a) An RHC vacancy is available;
- (b) Funding, specifically designated for this purpose in the state operating budget, is available for alternative community support services;
- (c) The person or their family is requesting residential services;
- (d) The person meets ICF/MR or nursing facility eligibility for the available RHC vacancy;

(e) The person is the most in need of residential services as determined by DDD after reviewing all persons determined eligible for ICF/MR or nursing facility level of care. DDD will make this selection based on the following criteria:

(i) The person is age eighteen or older;

(ii) The person's/family's health and safety is in jeopardy due to the lack of necessary residential support and supervision:

(A) Priority is given to eligible persons/families currently without necessary residential supports;

(B) Other eligible persons will be considered based on their risk of losing residential supports due to unstable or deteriorating circumstances.

(f) The person's alternative DDD funded community support services would cost seventy percent or more of the average RHC rate, assuming a minimum household size of three persons.

(5) If RHC capacity is not being used for permanent residents, the division will make these vacancies available for respite care or any other services the department determines are needed and allowable within the rules governing the use of federal funds.

(a) Admission of a child or adolescent to an RHC for respite care requires the written approval of the division director or designee.

(b) Respite care exceeding thirty days in a calendar year is subject to subsection (6) of this section.

(6) The division shall not make an emergency or temporary admission of a person to a residential habilitation center for thirty-one days or more without the written approval of the division director or the director's designee if the admission is not a choice provided under subsection (4) of this section.

(a) Children twelve years of age and younger shall not be admitted to an RHC.

(b) Admission of an adolescent to an RHC can only occur if:

(i) DDD determines that foster placement services cannot meet the emergency needs of the child/family; and

(ii) A voluntary placement plan is in place with DDD with the goal of community placement or family reunification; and

(iii) Progress towards placement planning is reported to the division director at least every ninety days.

(7) The division shall authorize county-funded services only when the((~~the~~:

((a))) service is included in a department contract((, and ((b))):

((a)) The person is at least twenty-one years of age and ((graduated from school during their twenty-first year; or)) is no longer attending school; or

((b)) The person is age twenty and graduates prior to his/her July or August twenty-first birthday; or

((c)) Person is twenty-two years of age or older; or

((d))) The child is two years of age or younger and eligible for early intervention services.

(8) The department shall require a person to participate in defraying the cost of services provided when mandated by state or federal regulation or statute.

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-100 Notification.** (1) The department shall notify the client or applicant, the parent when the client or applicant is a minor, and the guardian when the client or applicant is an adult, of the following decisions:

(a) Denial or termination of eligibility set forth in WAC ((388-825-100)) 388-825-030 and 288-825-035;

(b) Development or modification of the individual service plan set forth in WAC 388-825-050;

(c) Authorization, denial, reduction, or termination of services or payment of SSP set forth in WAC ((388-825-100)) 388-825-055; and

(d) Admission or readmission to, or discharge from, a residential habilitation center.

(2) The notice shall set forth appeal rights pursuant to WAC 388-825-120 and a statement that the client's case manager can be contacted for an explanation of the reasons for the action.

(3)(a) The department shall provide notice of a denial or partial authorization of a family support services request and a statement of reason for denial or partial authorization, or reduction to the person or persons described in subsection (1) of this section. The department shall send such notice no later than five working days before the end of the month previous to the month for which service was requested;

(b) The department shall make available an administrative review of a decision to deny or partially authorize services upon receipt of a written request by a person or persons described in subsection (1) of this section to the administrator of the region in which the client is living. The regional office must receive a request for administrative review by the last working day of the month;

(c) The client shall state in the written request why the client or client's family believes their service priority designation is not correct;

(d) Upon receipt of request for administrative review, the regional administrator or designee shall review the request and the client file; and

(e) The department shall send the results of the administrative review to the client and/or family within the first five working days of the service month for which the client is being denied or receiving a partial authorization for services.

(4) The department shall provide at least thirty days' advance notice of action to terminate a client's eligibility, terminate or reduce a client's service, or discharge a client from a residential habilitation center to the community. Transfer or removal of a client from a service set forth in WAC 388-825-120 (5)(f) is governed by that section, and reduction of family support funding during the service authorization period is covered by subsection (3)(a) of this section.

(5) All parties affected by such department decision shall be consulted, whenever possible, during the decision process by the responsible field services regional office in person and/or by telephone.

(6) The division shall ensure notification to the school district in which a school-aged child is to be placed when a placement decision is reached.

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-120 Adjudicative proceeding.** (1) A client, former client, or applicant acting on the applicant's own behalf or through an authorized representative has the right to an adjudicative proceeding to contest the following department actions:

- (a) Denial or termination of eligibility set forth in WAC ((~~388-825-100~~) 388-825-030 and 388-825-035);
- (b) Development or modification of the individual service plan set forth in WAC 388-825-050;
- (c) Authorization, denial, reduction, or termination of services or payment of SSP set forth in WAC ((~~388-825-100~~) 388-825-055);
- (d) Admission or readmission to, or discharge from, a residential habilitation center;
- (e) A claim the client, former client, or applicant owes an overpayment debt;
- (f) A decision of the secretary under RCW 71A.10.060 or 71A.10.070;
- (g) A decision to change a client's placement from one category of residential services to a different category of residential services.

(2) Adjudicative proceedings are governed by the Administrative Procedure Act (chapter 34.05 RCW), RCW 71A.10.050, the rules in this chapter, and by chapter 388-02 WAC. If any provision in this chapter conflicts with chapter 388-02 WAC, the provision in this chapter shall govern.

(3) The applicant's application for an adjudicative proceeding shall be in writing and filed with the DSHS office of appeals within twenty-eight days of receipt of the decision the appellant wishes to contest.

(4) The department shall not implement the following actions while an adjudicative proceeding is pending:

- (a) Termination of eligibility;
- (b) Reduction or termination of service, except when the action to reduce or terminate the service is based on the availability of funding and/or service; or
- (c) Removal or transfer of a client from a service, except when a condition in subsection (5)(f) of this section is present.

(5) The department shall implement the following actions while an adjudicative proceeding is pending:

- (a) Denial of eligibility;
- (b) Development or modification of an individual service plan;
- (c) Denial of service;
- (d) Reduction or termination of service when the action to reduce or terminate the service is based on the availability of funding or service;
- (e) After notification of an administrative law judge's (or review judge) ruling that the appellant has caused an unreasonable delay in the proceedings; or
- (f) Removal or transfer of a client from a service when:
  - (i) An immediate threat to the client's life or health is present;
  - (ii) Service termination or transfer for a specific group of clients in order to meet the intent of and comply with sections 205 and 207, chapter 371, Laws of 2002;

(iii) The client's service provider is no longer able to provide services due to:

- (A) Termination of the provider's contract;
- (B) Decertification of the provider;
- (C) Nonrenewal of provider's contract;
- (D) Revocation of provider's license; or
- (E) Emergency license suspension.

((iii))) (iv) The client, the parent when the client is a minor, or the guardian when the client is an adult, approves the decision.

(6) When the appellant files an application to contest a decision to return a resident of a state residential school to the community, the procedures specified in RCW 71A.10.050(2) shall govern the proceeding. These procedures include:

(a) A placement decision shall not be implemented during any period during which an appeal can be taken or while an appeal is pending and undecided unless the:

(i) Client's or the client's representative gives written consent; or

(ii) Administrative law judge (or review judge) after notice to the parties rules the appellant has caused an unreasonable delay in the proceedings.

(b) The burden of proof is on the department; and

(c) The burden of proof is whether the specific placement proposed by the department is in the best interests of the resident.

(7) The ((initial order shall be made)) administrative law judge shall issue an initial or final order within sixty days of the department's receipt of the application for an adjudicative proceeding. When a party files a petition for administrative review, allowed under WAC 388-02-0215 (4)(w)(x) and/or (y), the review order shall be made within sixty days of the department's receipt of the petition. The decision-rendering time is extended by as many days as the proceeding is continued on motion by, or with the assent of, the appellant.

**AMENDATORY SECTION** (Amending WSR 84-07-018 (Order 2086) [99-19-104], filed 9/20/99, effective 9/20/99)

**WAC 388-825-180 Eligible persons.** (1) To be eligible to apply for community alternatives program (CAP) services, the individual must:

(a) Meet the criteria for the division of developmental disabilities (DDD) eligibility.

(b) Meet the criteria for disability as established in the Social Security Act.

(c) Have an income of less than three hundred percent of the federal Supplemental Security Income (SSI) benefit amount.

(d) Need an IMR level of care as determined by a DDD nursing care consultant.

(i) Require twenty-four hour care and require services that cannot be provided by a family member, and

(ii) Have a documented need for habilitation services and training.

(e) Does not have SSP funding for the needed habilitation services and training.

(2) Participation in CAP is by choice of the otherwise IMR-eligible person.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-205 Who is eligible to participate in the family support opportunity program?** (1) All individuals living with their families determined to be developmentally disabled according to WAC 388-825-030 and 388-825-035 are eligible to participate in the program if their family requires assistance in meeting their needs. However, the program will fund or provide support services only as funding is available.

(2) Persons currently receiving services under WAC ((388-825-030)) 388-825-252, Family support services, may volunteer to participate in the program.

(3) Families will receive program services based on one or more of the following criteria: The date of application, eligibility for SSP or other available funding, and/or CAP waiver status.

(4) Availability of the SSP makes the family ineligible for other state funding for the same service.

**AMENDATORY SECTION** (Amending WSR 02-16-014, filed 7/25/02, effective 8/25/02)

**WAC 388-825-252 Family support services.** (1) The purpose of the family support program is to:

(a) Reduce or eliminate the need for out-of-home residential placement of a client where the in-home placement is in the client's best interest;

(b) Allow a client to live in the most independent setting possible; and

(c) Have access to services best suited to a client's needs.

(2) The department's family support services shall include, the following services:

(a) Respite care, including the use of community activities which provide respite;

(b) Attendant care;

(c) Nursing services provided by a registered nurse or licensed practical nurse, that cannot be provided by an unlicensed caregiver, including but not limited to, ventilation, catheterization, insulin injections, etc., when not covered by another resource;

(d) Therapeutic services, provided these therapeutic services are not covered by another resource such as medicaid, private insurance, public schools, or child development services funding, including:

(i) Physical therapy;

(ii) Occupational therapy;

(iii) Behavior management therapy; and

(iv) Communication therapy; or

(v) Counseling for the client relating to a disability.

(3) Receiving family support services is based on:

(a) Funding for state paid services available in the state operating budget; or

(b) SSP funding available to the client/family.

(4) The following rules, subsections (5) through (9), apply only to family support services authorized by the

department and do not govern services purchased by the family with SSP (state supplementary payment) funding (see WAC 388-825-570).

(5) Up to nine hundred dollars of the service need level amount in WAC ((388-825-252)) 388-825-254 may be used during a one year period for flexible use as follows. The requested service must be necessary as a result of the disability of the client.

(a) Training and supports including parenting classes and disability related support groups;

(b) Specialized equipment and supplies including the purchase, rental, loan or refurbishment of specialized equipment or adaptive equipment not covered by another resource including Medicaid. Mobility devices such as walkers and wheelchairs are included, as well as communication devices and medical supplies such as diapers for those more than three years of age;

(c) Environmental modification including home repairs for damages, and modifications to the home needed because of the disability of the client;

(d) Medical/dental services not covered by any other resource. This may include the payment of insurance premiums and deductibles and is limited to the premiums and deductibles of the client;

(e) Special formulas or specially prepared foods needed because of the disability of the client;

(f) Parent/family counseling dealing with a diagnosis, grief and loss issues, genetic counseling and behavior management;

(g) Specialized clothing adapted for a physical disability, excessive wear clothing, or specialized footwear;

(h) Specialized utility costs including extraordinary supplemental utility costs related to the client's disability or medical condition;

(i) Transportation costs for gas or tickets (ferry fare, transit cost) for a client to get to essential services and appointments, if another resource is not available;

(j) Other services approved by the DDD regional administrator or designee that will replace or reduce ongoing departmental expenditures and will reduce the risk of out-of-home placement. Exemption requests under this section are not subject to appeal.

((4)) (6) Recommendations will be made to the regional administrator by a review committee. The regional administrator will approve or disapprove the request and will communicate reasons for denial to the committee.

((5)) (7) Payment for services specified in subsection ((3)) (5), except ((3)) (5)(a) and (h), shall cover only the portion of cost attributable to the client.

((6)) (8) Requests must be received by DDD no later than midway through the service authorization period unless circumstances exist justifying an emergency.

((7)) (9) A plan shall be developed jointly by the family and the department for each service authorization period. The department may choose whether to contract directly with the vendor, to authorize purchase by another agency, or may reimburse the parent of the client.

((8)) (10) Emergency Services. Emergency funds may be requested for use in response to a single incident or situation or short term crisis such as care giver hospitalization,

absence, or incapacity. The request shall include anticipated resolution of the situation. Funds shall be provided for a limited period not to exceed two months. All requests are to be reviewed and approved or denied by the regional administrator or designee.

((9)) (11) A departmental service authorization shall state the type, amount, and period (duration) of service. Each department authorization shall constitute a new service for a new period.

((10)) (12) If the client becomes eligible and begins to receive Medicaid Personal Care services as defined in WAC ((388-15-202 through 388-15-203)) 388-71-0202 and 388-71-0203, the family support funding will be reduced at the beginning of the next month of service. The family will receive notice of the reconfiguration of services at least five working days before the beginning of the month.

((11)) (13) If requested family support services are not authorized, such actions shall be deemed a denial of services.

((12)) (14) Family support services may be authorized below the amount requested by the family for the period. When, during the authorized service period, family support services are reduced or terminated below the amount specified in service authorizations, the department shall deem such actions as a reduction or termination of services.

#### AMENDATORY SECTION (Amending WSR 02-01-074, filed 12/14/01, effective 1/14/02)

**WAC 388-825-254 Service need level rates.** (1) The department shall base periodic service authorizations on:

(a) Requests for family support services described in WAC 388-825-252(2) ((of this section)) and (5);

(b) Service need levels ((as described in WAC 388-825-252(3) of this chapter)). The amount of SSP (state supplementary payment) available to a client will be included when calculating the monthly allocation of state family support dollars.

(c) Service need level lid amounts are as follows:

(i) Clients designated for service need level one (WAC 388-825-256) may receive up to one thousand one hundred fifty-six dollars per month or two thousand four hundred sixty-two dollars per month if the client requires licensed nursing care in the home:

(A) If a client is receiving funding through Medicaid Personal Care or other DSHS in-home residential support, the maximum payable through family support shall be five hundred twelve dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than one thousand one hundred fifty-six dollars additional family support can be authorized to bring the total to one thousand one hundred fifty-six dollars.

(ii) Clients designated for service need level two (WAC 388-825-256) may receive up to four hundred fifty-six dollars per month if not receiving funding through Medicaid personal care:

(A) If a client is receiving funds through Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be two hundred fifty-six dollars per month;

(B) If the combined total of family support services at this maximum plus in-home support is less than fifty-six hundred four dollars, additional family support can be authorized to bring the total to four hundred fifty-six dollars.

(iii) Clients designated for service need level three (WAC 388-825-256) may receive up to two hundred fifty-six dollars per month provided the client is not receiving Medicaid personal care. If the client is receiving Medicaid personal care or other DSHS in-home residential support service, the maximum receivable through family support shall be one hundred twenty-eight dollars per month; and

(iv) Clients designated for service level four (WAC 388-825-256) may receive up to one hundred twenty-eight dollars per month family support services.

((e)) (d) Availability of family support funding;

((d)) (e) Authorization by a review committee, in each regional office, which reviews each request for service;

((e)) (f) The amounts designated in subsection (1)(b)(i) through (iv) of this section are subject to periodic increase if vendor rate increases are mandated by the legislature.

(2) The department shall authorize family support services contingent upon the applicant providing accurate and complete information on disability-related requests.

(3) The department shall ensure service authorizations do not exceed maximum amounts for each service need level based on the availability of funds.

(4) The department shall not authorize a birth parent, adoptive parent, or stepparent living in the same household as the client as the direct care provider for respite, attendant, nursing, therapy, or counseling services for a child seventeen years of age or younger.

#### NEW SECTION

**WAC 388-825-500 What is the State Supplementary Payment that will be administered by the division of developmental disabilities (DDD)?** The State Supplementary Payment (SSP) is a state-paid cash assistance program for certain clients of the division of developmental disabilities.

#### NEW SECTION

**WAC 388-825-505 What are the eligibility requirements for the DDD/SSP program?** To be eligible to receive DDD/SSP, you must be determined DDD eligible under RCW 71A.10.020 and meet all of the financial and programmatic criteria for DDD/SSP.

#### NEW SECTION

**WAC 388-825-510 What are the financial eligibility requirements to receive DDD/SSP?** You must have been eligible for SSI cash assistance in March 2002 and currently be eligible for SSI cash assistance.

#### NEW SECTION

**WAC 388-825-515 What are the programmatic requirements for DDD/SSP?** (1) You received one or more

of the following services from DDD with state-only funding between March 1, 2001 and February 28, 2002, were approved by DDD for one of these services in July 2002 and are approved by DDD to receive one of these services.

(a) Certain voluntary placement program services, which include:

- (i) Foster care basic maintenance,
- (ii) Foster care specialized support,
- (iii) Agency specialized support,
- (iv) Staffed residential home,
- (v) Out-of-home respite care,
- (vi) Agency in-home specialized support,
- (vii) Group care basic maintenance,
- (viii) Group care specialized support,
- (ix) Transportation,
- (x) Agency attendant care,
- (xi) Child care,
- (xii) Professional services,
- (xiii) Nursing services,
- (xiv) Interpreter services,

(b) Family support;

(c) Residential services from one or more of the following licensed, certified and/or contracted providers:

- (i) Adult family home,
- (ii) Adult residential care facility,
- (iii) Alternative living,
- (iv) Group home,
- (v) Supported living,
- (vi) Agency attendant care,
- (vii) Supported living or other residential service allowance,

(viii) Intensive individual supported living support (companion homes).

(2) For individuals with community protection issues as defined in WAC 388-820-020, the department will determine eligibility for SSP on a case-by-case basis.

(3) For new authorizations of family support opportunity,

(a) You were on the family support opportunity waiting list prior to January 1, 2003; and

(b) You are on the CAP waiver; and

(c) You continue to meet the eligibility requirements for the family support opportunity program.

(4) For transition employment/day program services:

(a) You received or will receive transition employment/day program services from a county or a county-contracted provider funded by DDD between July 1, 2001 and June 30, 2003, and:

(i) You have been assessed by DDD, the division of vocational rehabilitation (DVR) or the department of services for the blind to be in need of long-term support; and

(ii) Were born between September 1, 1979 and August 31, 1981; and

(iii) Receive services from a county or a county-contracted provider; and

(iv) You have developed a plan with DDD for employment/day program services.

(b) If you are on the community alternatives program (CAP) waiver and received transition employment/day program services between July 1, 2001 and August 31, 2002, but

receive no CAP waiver services from DDD other than transition employment/day program services, you will receive transition employment/day program services according to WAC 388-825-055(7). You will not receive SSP for these services.

(5) For employment/day programs services for persons born prior to September 1, 1979, you have been assessed by DDD, the division of vocational rehabilitation (DVR) or the department of services for the blind to be in need of long-term support, and:

(a) You were authorized by DDD and the county for employment/day program services for December 2002; and

(b) These services were funded totally with state funds; and

(c) You were born prior to September 1, 1979; and

(d) You continue to receive services from a county or county-contracted provider.

#### NEW SECTION

**WAC 388-825-520 How often will my eligibility for DDD/SSP be re-determined?** Redetermination of eligibility for the DDD/SSP program will be conducted at least every twelve months, or more frequently if deemed necessary by DDD.

#### NEW SECTION

**WAC 388-825-525 How will I know if I am eligible to receive a DDD/SSP payment?** You will receive a written notification from DDD if you have been identified as eligible for this program.

#### NEW SECTION

**WAC 388-825-530 Can I choose not to accept DDD/SSP payments?** If your service funding has been converted to the DDD/SSP program, DDD/SSP payments are the only way you can receive that funding.

(1) If you choose not to receive DDD/SSP payments, you will not receive department funding for that service.

(2) Your community alternatives program (CAP) waiver service(s) not funded by DDD/SSP payments will not be affected by your choice to receive or reject DDD/SSP payments.

#### NEW SECTION

**WAC 388-825-535 Can I apply for the DDD/SSP program if I am not identified by DDD as eligible for the DDD/SSP program?** You can apply through your case resource manager to determine eligibility for SSP but eligibility is limited to those meeting the eligibility requirements in WAC 388-825-505, 388-825-510 and 388-825-515.

#### NEW SECTION

**WAC 388-825-540 What are my appeal rights if DDD determines that I am not eligible for DDD/SSP?** (1) You have the right to appeal the department's denial, termina-

tion, or reduction of services. Your rights to an adjudicative proceeding are in WAC 388-825-120.

(2) Your current services will not be continued while the matter is being appealed if the service termination or transfer is for a specific group of clients in order to meet the legislative intent of and comply with sections 205 and 207, chapter 371, Laws of 2002.

#### NEW SECTION

##### **WAC 388-825-545 How much money will I receive?**

The department will determine your payment amount.

(1) For residential and VPP services, the amount of your SSP will be based on the amount of state-only dollars spent on certain services for July 2002.

(2) For family support services, refer to WAC 388-825-200 through 388-825-284.

(a) If you are on the community alternatives program (CAP) waiver:

(i) You will receive nine hundred dollars DDD/SSP money per year to use as you determine;

(ii) The remainder up to the maximum allowed may be authorized by DDD to purchase CAP waiver services and will be paid directly to the provider.

(b) If you are not on the CAP waiver, you will receive the yearly maximum allowed in the form of DDD/SSP money to use as you determine.

(c) The yearly amount of DDD/SSP money will be prorated into monthly amounts. You will receive one twelfth of the yearly amount each month.

(d) You may have already received services paid by DDD before the DDD/SSP program began. The amount you already received will be subtracted from the yearly amounts stated above, and the remainder will be prorated by the number of months remaining in your service year.

#### EXAMPLE:

Your service year runs from July 2002 through June 2003. You are on the CAP waiver. You received three hundred dollars before the DDD/SSP program began. In September, you have ten months remaining in your service year. The remaining amount of six hundred dollars (nine hundred dollars minus three hundred dollars already received) will be prorated for ten months. You will receive sixty dollars per month for September through June 2003.

(3) For transition and other employment/day program services, the department will individually determine the amount of your payment.

#### NEW SECTION

##### **WAC 388-825-546 May I voluntarily remove myself from the community alternatives program (CAP) waiver in order to increase the amount of my SSP?**

You may voluntarily remove yourself from the CAP waiver but your SSP will not increase because of this action.

#### NEW SECTION

**WAC 388-825-550 How often will I receive my DDD/SSP warrant/check?** You will receive a monthly warrant/check from the state.

#### NEW SECTION

**WAC 388-825-555 Who will the warrant/check be sent to?** (1) If you are a child under the age of eighteen, the warrant/check will be sent to your legal representative or protective payee or representative payee.

(2) If you are a person age eighteen and older, the warrant/check will be sent directly to your protective payee or representative payee if you have one.

(3) If you do not have a protective payee or representative payee, the warrant/check will be sent directly to you.

#### NEW SECTION

**WAC 388-825-560 How will the warrant/check be sent?** You may choose to have your check delivered through the US Postal Service, or as an electronic funds transfer.

#### NEW SECTION

**WAC 388-825-565 When will DDD/SSP begin issuing payments?** Payments will begin in August 2002 for September 2002 services for all services except new authorizations for family support opportunity and employment/day program services. New authorizations for family support opportunity will begin in January 2003 for February 2003 services. For transition employment/day program services, payments will be phased in, beginning in September 2002 for October 2002 services. For other employment/day program services, payments will be phased in, beginning in November 2002 for December 2002 services.

#### NEW SECTION

**WAC 388-825-570 Are there rules restricting how I use my DDD/SSP money?** (1) For family support:

(a) If you are on the CAP waiver:

(i) Nine hundred dollars DDD/SSP money per year may be used as you determine;

(ii) The remainder up to the maximum allowed may be authorized by DDD and paid directly to the provider for the following CAP waiver services:

(A) Respite care, not including community activities;

(B) Attendant care;

(C) Nursing services;

(D) Therapies, including:

(I) Physical therapy;

(II) Occupational therapy;

(III) Behavior management therapy; and

(IV) Communication therapy; or

(V) Counseling for the client relating to a disability.

(E) Family consultation and training;

(F) Specialized equipment and supplies;

(G) Environmental modifications;

(H) Medications not covered by Medicaid; and  
 (I) Transportation costs.

(b) If you are not on the CAP waiver, you may use the maximum allowed in the form of DDD/SSP money as you determine.

(2) For voluntary placement program (VPP):

(a) DDD/SSP funds for current VPP children under age eighteen must be used to purchase VPP services from a state contracted and/or licensed provider.

(b) DDD/SSP funds for current VPP persons age eighteen through age twenty must be used to purchase VPP services from a provider who is contracted by the state and is either licensed or certified.

(3) For adult residential services, requirements will vary according to residence:

(a) Persons currently receiving services from a certified or licensed provider must use their DDD/SSP money to purchase residential services. Examples of these residential providers: adult family home, adult residential care, group home, supported living, and agency attendant care.

(b) Persons receiving alternative living or companion home services from an individual contracted with DSHS/DDD and who choose to continue to use an individual provider, must use persons contracted with DSHS/DDD.

(4) For service allowance or other residential client allowance, you are required to use this money for necessary living expenses only; i.e., rent, food, utilities.

(5) For transition employment/day program services, you are required to use this money to purchase transition employment/day program services from a county or a county-contracted provider.

(6) For other employment/day program services, you are required to use this money to purchase employment/day program services from a county or a county-contracted provider.

#### NEW SECTION

**WAC 388-825-571 May I purchase services from a provider who lives outside the state of Washington?** The provider does not have to live within the state, subject to the following limitations.

(1) For family support, you may use your SSP as you determine best.

(2) For employment/day program services, you must purchase services from a county of the state of Washington or from a provider who has a contract with a county of the state of Washington.

(3) For all other services, you must purchase services from a person or provider who is licensed or certified by and contracted with the state of Washington.

#### NEW SECTION

**WAC 388-825-575 What changes must I report to the department?** You must report changes in your circumstances within ten days from the date you become aware of the change. You must tell us if:

- (1) Your SSI stops;
- (2) You address changes; or

(3) There is a change in your living arrangement that affects your eligibility for the receipt of service.

#### NEW SECTION

**WAC 388-825-576 Do I have additional responsibilities when I purchase my own services?** (1) When you purchase in-home services from individuals, you become the employer. As the employer, you may have tax liabilities. If you have questions regarding employer tax issues, you can contact the Internal Revenue Service.

(2) If you want to obtain a criminal background check of any employee who will have unsupervised access to children or adults with developmental disabilities, you may get the background check done through the State Highway Patrol or DSHS. You can ask DDD to assist you with completing these background checks.

#### NEW SECTION

**WAC 388-825-580 What happens if I do not spend my DDD/SSP money as required in WAC 388-825-570?** DSHS has the right to recover any SSP benefit issued by DDD and terminate eligibility for SSP if it is determined that:

(1) The SSP benefits were not spent as required in WAC 388-825-570; or

(2) You no longer are eligible for SSI cash benefits, and continued to collect DDD/SSP; or

(3) Your living situation changed, the living situation impacts eligibility for funding, and you continued to collect DDD/SSP.

#### NEW SECTION

**WAC 388-825-585 When will the department stop sending my DDD/SSP money?** The department will stop sending your DDD/SSP money when:

(1) You no longer are eligible for SSI;

(2) Your living arrangement changes and the change affects your eligibility for service;

(3) You no longer require the service; or

(4) Your DDD eligibility is terminated.

#### NEW SECTION

**WAC 388-825-590 What is a representative payee?** A representative payee is a person, organization, institution or agency that manages your DDD/SSP and ensures that the funds are spent on services contained in WAC 388-825-570. They may also provide services such as helping you manage your money.

#### NEW SECTION

**WAC 388-825-591 Who can be a representative payee for my DDD/SSP?** (1) A representative payee may be:

(a) The person, organization, institution or agency who acts as your representative payee for Supplemental Security Income (SSI);

(b) Your parent, if you are under eighteen;

- (c) Your spouse; or  
 (d) A person, organization, institution or agency you select if the department approves your selection.
- (2) If you select a representative payee under subsection (1)(d) of this section, the department will evaluate the selection according to the following criteria:
- (a) The relationship of the payee to you;
  - (b) The amount of interest the payee shows in you;
  - (c) Any legal authority the payee has to act on your behalf;
  - (d) Whether the payee has custody of you; and
  - (e) Whether the payee is in a position to know of and look after your needs.
- (3) The DDD director or designee will approve or deny your request for a representative under subsection (1)(d) of this section.

#### NEW SECTION

**WAC 388-825-592 What are the responsibilities of a representative payee?** A representative payee has the responsibility to:

- (1) Use the payments received only for the purpose for which they were intended;
- (2) Notify the department if any event happens that may affect the amount of benefits you receive;
- (3) Submit to the department, upon our request, a written report accounting for the payments received; and
- (4) Notify the department if any change in the payee's circumstances that would affect performance of the payee responsibilities.

#### NEW SECTION

**WAC 388-825-600 Does DSHS make exceptions to the requirements in this chapter?** DSHS may grant exceptions to the requirements specified in this chapter as long as the following conditions are met:

- (1) You or your case manager may request an exception to a rule in this chapter.
- (2) The case manager must submit a written request for an exception to his or her DDD regional administrator.
- (3) DSHS will evaluate requests for exceptions, considering:
  - (a) The federal and state rules governing SSP;
  - (b) The health and safety of the clients;
  - (c) The quality and necessity of the services;
  - (d) The availability of the services through normal channels;
  - (e) The impact on the client if the service is not provided; and
  - (f) The impact on other clients of the program.
- (4) The DDD regional administrator will forward the request to the DDD director together with the regional administrator's recommendation to approve or deny the request.
- (5) The DDD director or designee will approve or deny the request in writing within sixty calendar days after receiving the request from the case manager.
- (6) The department will notify you of the decision.

- (7) You do not have rights to adjudicative proceedings when you receive a denial from DSHS for an exception to the rules in this chapter.

**AMENDATORY SECTION** (Amending WSR 99-10-104 [99-19-104], filed 9/20/99, effective 9/20/99)

**WAC 388-850-035 Services—Developmental disabilities.** (1) A county may purchase and provide services listed under chapter 71A.14 RCW.

- (a) The department shall pay a county for department authorized services provided to an eligible developmentally disabled person.

**(b) DD eligible persons who receive SSP funding for transition services shall pay the county or a county contracted provider for services.**

- (2) A county may purchase or provide authorized services. Authorized services may include, but are not limited to:

- (a) Early childhood intervention services;
- (b) Employment services;
- (c) Community access services;
- (d) Residential services;
- (e) Individual evaluation;
- (f) Program evaluation;
- (g) County planning and administration; ((and))
- (h) Consultation and staff development; and
- (i) SSP oversight.

**Reviser's note:** The bracketed material preceding the section above was supplied by the code reviser's office.

**AMENDATORY SECTION** (Amending WSR 92-13-032 (Order 3404) [99-19-104], filed 9/20/99, effective 9/20/99)

**WAC 388-850-045 Funding formula—Developmental disabilities.** (1) For the purposes of this section, "county" shall mean the legal subdivision of the state, regardless of any agreement with another county to provide developmental disabilities services jointly.

- (2) The allocation of funds to counties shall be based on the following criteria:

(a) Each county shall receive a base amount of funds. The amount shall be based on the prior biennial allocation, including any funds from budget provisos from the prior biennium, and subject to the availability of state and federal funds;

(b) The distribution of any additional funds provided by the legislature or other sources shall be based on a distribution formula which best meets the needs of the population to be served as follows:

(i) On a basis which takes into consideration minimum grant amounts, requirements of clients residing in an ICF/MR or clients on one of the division's Title XIX home and community-based waivers, and the general population of the county, and special education enrollment as well as the population eligible for county-funded developmental disabilities services;

(ii) On a basis that takes into consideration the population numbers of minority groups residing within the county;

(iii) A biennial adjustment shall be made after these factors are considered; and

(iv) Countries not receiving any portion of additional funds pursuant to this formula shall not have their base allocation reduced due to application of this formula.

(c) Funding appropriated through legislative proviso, including vendor rate increases, shall be distributed to the population directed by the legislature utilizing a formula as directed by the legislature or using a formula specific to that population or distributed to identified people;

(d) The ability of the community to provide funds for the developmental disability program provided in chapter 71A.14 RCW may be considered with any or all of the above.

(3)(a) A county may utilize seven or less percent of the county's allocated funds for county administrative expenses. A county may utilize more than seven percent for county administration with approval of the division director. A county electing to provide all services directly, in addition to county administration, is exempt from this requirement.

(b) A county may receive funds for oversight of employment/day program services purchased by DDD clients with their SSP, based on the following conditions:

(i) The SSP oversight funds for the recipients described below will be allocated at the same rate that the county received in their original 2001-2003 DDD county program agreement for administrative expenses for these same individuals. These funds will be calculated by using the date the recipient began receiving SSP, if the recipient:

(A) Was born between September 1, 1979 and August 31, 1981; and

(B) Received a county or county-contracted service between July 1, 2001 and June 30, 2002; and

(C) Continues to receive a county or county-contracted service.

(ii) SSP oversight funds for the recipients described below will be allocated at the same rate that the county received in their original 2001-2003 DDD county program agreement for administrative expenses for these same individuals. These funds will be calculated by using the date the recipient began receiving SSP, if the recipient:

(A) Was born prior to September 1, 1979; and

(B) Was authorized by DDD and the county for employment/day program services for December, 2002; and

(C) Continues to receive a county or county-contracted service.

(iii) The SSP oversight funds for recipients described below shall equal up to seven percent of the amount of the SSP received by the recipient, if the SSP recipient:

(A) Was born between September 1, 1979 and August 31, 1981; and

(B) Received no county or county-contracted service prior to July 1, 2002; and

(C) Received or will receive a county or county-contracted service between July 1, 2002 and June 30, 2003; and

(D) Continues to receive a county or county-contracted service.

(4) The department may withhold five or less percent of allocated funds for new programs, for statewide priority programs, and for emergency needs.

Reviser's note: The bracketed material preceding the section above was supplied by the code reviser's office.

**WSR 03-04-007  
EMERGENCY RULES  
DEPARTMENT OF  
FISH AND WILDLIFE**

[Order 03-09—Filed January 24, 2003, 2:57 p.m.]

Date of Adoption: January 24, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-52-04600P; and amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The state may not authorize commercial shellfish harvest absent agreed planning or compliance with a process. The provisions of this rule are in conformity with agreed plans with applicable tribes which have been entered as required by the court order. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 24, 2003

J. P. Koenings

Director

**NEW SECTION**

**WAC 220-52-04600P Coastal crab fishery—Special management area.** Notwithstanding the provisions of WAC 220-52-046, effective immediately until further notice, it is unlawful for non-Indian commercial fishers to fish for or take crab for commercial purposes, or place gear, in the following areas during the periods indicated:

(1) The following area is closed through March 14, 2003:

(a) Coastal waters between 47°40.50' N and 47°54.00'N, and east of a line described by the following points:

Southern point: 47°40.50'N124°40.00'W

Northern point: 47°54.00'N124°47.00'W

(2) The following area is closed through March 31, 2003:

(a) Coastal waters between 48°07.50'N and 48°22.86'N, and east of a line described by the following points:

Southwest point: 48°07.50'N124°51.50'W

Northwest point: 48°20.00'N124°50.00'W

Cape Flattery: 48°22.86'N124°43.83'W

ing: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 23, 2003

Larry Davis

Executive Director

**AMENDATORY SECTION** (Amending WSR 01-13-108, filed 6/20/01, effective 7/21/01)

**WAC 180-82-204 Endorsement requirements.** (1)

Candidates for all primary teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (See WAC 180-78A-264(5)) and field experience/internship (See WAC 180-78A-264(7)).

(2) Candidates for all supporting teaching endorsements shall complete college/university programs approved by the state board of education pursuant to chapter 180-78A WAC, which shall include methodology (see WAC 180-78A-264 (5)). The requirement for field experience/internship for a supporting endorsement shall be at the discretion of the college/university: Provided, That in cases where programs require a field experience/internship the colleges and universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's existing schedule.

(3) Teachers may add an endorsement by achieving National Board certification in a Washington teaching endorsement area and possessing a valid National Board certificate.

(4) The state board of education shall approve teacher preparation programs for each endorsement program at Washington colleges and universities, pursuant to chapter 180-78A WAC.

((4)) (5) Candidates from out-of-state shall be required to present verification that they completed a state-approved program in a Washington endorsement area, except as otherwise provided in WAC 180-79A-257 (1)(d).

((5)) (6) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

((6)) (7) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

((7)) (8) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

**REPEALER**

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2003:

WAC 220-52-04600P      Coastal crab fishery—Special management areas.

**WSR 03-04-027  
EMERGENCY RULES  
STATE BOARD OF EDUCATION**

[Filed January 27, 2003, 2:47 p.m.]

Date of Adoption: January 17, 2003.

Purpose: To allow individuals who hold National Board for Professional Teaching Standards (NBPTS) certification to have the endorsements on their national certificates placed on their Washington state teaching certificates.

Citation of Existing Rules Affected by this Order: Amending WAC 180-82-204.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Individuals with National Board for Professional Teaching Standards (NBPTS) certification are not always eligible to have the same teaching endorsements on their Washington teaching certificates. This causes them to be ineligible to accept teaching positions in a district where a need exists.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Mak-

**WSR 03-04-028  
EMERGENCY RULES  
STATE BOARD OF EDUCATION**

[Filed January 27, 2003, 2:48 p.m.]

Date of Adoption: January 17, 2003.

Purpose: To allow individuals who hold National Board for Professional Teaching Standards (NBPTS) certification to have the endorsements on their national certificates placed on their Washington teaching certificates.

Citation of Existing Rules Affected by this Order: Amending WAC 180-82A-204.

Statutory Authority for Adoption: RCW 28A.410.010.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Individuals with National Board for Professional Teaching Standards (NBPTS) certification are not always eligible to have the same teaching endorsements on their Washington teaching certificates. This causes them to be ineligible to accept teaching positions in a district where a need exists.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 1, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 23, 2003  
Larry Davis  
Executive Director

#### AMENDATORY SECTION (Amending WSR 02-04-013, filed 1/24/02, effective 2/24/02)

**WAC 180-82A-204 Endorsement requirements.** (1) Candidates completing endorsements required to obtain a residency certificate, shall complete college/university teacher preparation programs approved by the state board of education pursuant to chapter 180-78A WAC, which include methodology (see WAC 180-78A-264(5)) and field experience/internship (see WAC 180-78A-264(6)) and pursuant to endorsement program approval requirements in this chapter.

(2) In order to add an additional endorsement, the candidate shall:

(a) Have completed a state-approved endorsement program which includes methodology (see WAC 180-78A-264(5)) and addresses all endorsement-specific competencies adopted by the state board of education and published by the superintendent of public instruction. The requirement for field experience shall be at the discretion of the college/un-

iversity. Provided, that in cases where programs require a field experience/internship, the colleges/universities should make every attempt to allow the individual to complete field-based requirements for the endorsement within the confines of the individual's teaching schedule; or

(b) Achieve National Board certification in a Washington teaching endorsement area and hold a valid National Board certificate.

(3) Candidates from out-of-state shall be required to present verification that they completed a state-approved program (equivalent to a major) in a Washington endorsement area.

(4) Course work used to meet endorsement requirements must be completed through a regionally accredited college/university.

(5) Only course work in which an individual received a grade of C (2.0) or higher or a grade of pass on a pass-fail system of grading shall be counted toward the course work required for the approved endorsement program.

(6) Nothing within this chapter precludes a college or university from adopting additional requirements as conditions for recommendation, by such college or university, to the superintendent of public instruction for a particular subject area endorsement.

#### WSR 03-04-031

#### EMERGENCY RULES

#### DEPARTMENT OF REVENUE

[Filed January 27, 2003, 3:29 p.m.]

Date of Adoption: January 27, 2003.

Purpose: Persons who distribute or cause to be distributed any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services are subject to use tax on the value of the property. RCW 82.12.010, 82.12.020, and chapter 367, Laws of 2002. WAC 458-20-17803 explains how use tax applies when such property is delivered to persons other than the consumer from outside the state of Washington. This rule explains what are considered to be promotional materials, who is liable for the use tax, the measure of use tax, and how to determine the appropriate local use tax rate/jurisdiction.

Statutory Authority for Adoption: RCW 82.32.300 and 82.01.060(2).

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This rule was previously adopted on an emergency basis effective September 28, 2002 (WSR 02-20-061). The rule provides tax-reporting instructions to persons who are subject to the tax. The department is again adopting Rule 17803 on an emergency basis because a permanent rule cannot be adopted before the expiration date of the previous emergency adoption. There have been no changes to the rule being adopted with this filing. Adoption

of this rule will continue to provide tax information to taxpayers, tax practitioners, and department staff to use in determining the taxability of persons distributing or causing the distribution of promotional materials.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 1, Amended 0, Repealed 0.

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted on the Agency's Own Initiative:** New 1, Amended 0, Repealed 0.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted Using Negotiated Rule Making:** New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 1, Amended 0, Repealed 0.

**Effective Date of Rule:** Immediately.

January 27, 2003

Alan R. Lynn  
Rules Coordinator  
Legislation and Policy Division

## NEW SECTION

**WAC 458-20-17803 Use tax on promotional materials.** (1) **Introduction.** Persons who distribute or cause to be distributed any article of tangible personal property, except newspapers, the primary purpose of which is to promote the sale of products or services, are subject to use tax on the value of the property. RCW 82.12.010, RCW 82.12.020, and chapter 367, Laws of 2002. This rule explains how use tax applies when such property is delivered directly to persons other than the consumer from outside Washington. For the purposes of this rule, the term "promotional material" will be used in describing such property where applicable. This rule provides numerous examples. For the purposes of these examples, presume the promotional material is delivered to persons within Washington.

Persons within this state providing printing or mailing bureau services should refer to WAC 458-20-141 (Duplicating industry and mailing bureaus) and WAC 458-20-144 (Printing industry).

(2) **What is the use tax?** The use tax complements the retail sales tax by imposing a tax of a like amount when a consumer uses tangible personal property or certain retail services within this state. RCW 82.12.020. The tax does not apply to the use of any property or service if the present user, donor, or bailor previously paid retail sales tax under chapter 82.08 RCW with respect to the property used or the service obtained. See WAC 458-20-178 (Use tax) for a detailed explanation of the use tax and use tax reporting requirements.

(3) **Who is liable for the use tax on promotional material?** The use tax is imposed on the consumer. The law provides that with respect to promotional material distributed to persons within this state, the consumer is the person who dis-

tributes or causes the distribution of the promotional material. A consumer as defined in this rule is responsible for remitting use tax only if the consumer has nexus in Washington.

For example, a department store located in Washington contracts with a printer in Vancouver, British Columbia, to print a catalog promoting merchandise available during an upcoming sales event. The printer delivers the catalogs to a Seattle mailing bureau with which the department store has contracted for distribution to the department store's customers. The department store is the consumer of the catalogs and is liable for use tax on promotional material distributed to customers located in Washington. Neither the printer, nor the mailing bureau, nor the department store's customers are consumers of this promotional material.

(4) **When does tax liability arise?** Liability for the use tax arises when a consumer first uses the promotional material in this state. The terms "use," "used," "using," or "put to use" include any act by which a person takes or assumes dominion or control over the article, and include the distribution of promotional material in Washington. Chapter 367, Laws of 2002.

(5) **What is promotional material?** Promotional material is any tangible personal property displayed or distributed in the State of Washington for the primary purpose of promoting the sale of products or services. Examples of promotional material include, but are not limited to, advertising literature, circulars, catalogs, brochures, inserts (but not newspaper inserts), flyers, applications, order forms, envelopes, folders, posters, coupons, displays, signs, free gifts, or samples (such as carpet or textile samples).

Promotional material does not include invoices, statements of account, and similar documents that are used exclusively for non-promotional purposes.

(a) **Are billing statements promotional materials?** Billing statements and statements of account generally are not considered promotional materials. However, information promoting the sale of products or services that is affixed to, is attached to, or is an extension of a billing statement or statement of account is promotional material. The value of the promotional material is subject to use tax. If the consumer cannot separately identify the costs attributable to the promotional material, the full value of the billing statement is subject to use tax. For additional information regarding the measure of tax, refer to subsection (6) of this rule.

(i) **Example.** A Richland attorney contracts with a Umatilla, Oregon, firm to print and mail monthly billing statements and return remittance envelopes to the attorney's clients. The contract also includes the printing and insertion of a flyer promoting the attorney's estate planning services. The flyers are promotional material. The billing statements are not promotional material.

(ii) **Example.** Store A prints its monthly billing statements for its store credit card in Atlanta, Georgia, and mails them to customers located in Washington. Although the billing statement includes three sentences noting an upcoming sale, this information is not affixed or attached to the billing statement, nor does it otherwise extend the length of the billing statement. The billing statements are not promotional material.

(iii) **Example.** The following month, Store A's billing statement includes a detachable coupon for fifteen percent (15%) off selected items purchased during a specified period. The detachable coupon is promotional material.

(iv) **Example.** In the third month, the bottom of Store A's billing statement is lengthened to include information promoting the grand reopening of one of its locations. The lengthened portion of the billing statement containing the information promoting the grand reopening is promotional material.

(b) **When are envelopes considered promotional material?** Envelopes are considered promotional material if used exclusively to mail promotional material, or accept offers solicited with promotional material. To the extent promotional material is attached, affixed, or otherwise extends the envelope, the consumer is distributing or causing the distribution of promotional material. The value of the promotional material is subject to use tax. If the consumer cannot separately identify the costs attributable to the promotional information, the full value of the envelopes is subject to use tax. For additional information regarding the measure of tax, refer to subsection (6) of this rule.

(i) **Example.** Bank A mails one million brochures, applications, and return envelopes from Atlanta, Georgia, to Washington addresses promoting the bank's credit card. The envelopes used to mail brochures and applications are promotional material. The return envelopes provided for the return of credit card applications is also promotional material.

(ii) **Example.** A telephone company mails its monthly billing statements to Washington customers from St. Louis, Missouri. Inserts promoting the sale of various telephone accessories are included. The inserts identify a toll-free number to call for those customers wishing to purchase the accessories. Return envelopes to be used in making payment of the statement amount are also enclosed. Neither the envelopes used to mail the billing statements and inserts nor the return envelopes used to make payment are promotional material.

(iii) **Example.** A national mortgage company mails its monthly billing statements to Washington residents from its administrative offices in Nevada. The enclosed return envelope for customers to use in making payment includes an attachment promoting additional banking services. The envelopes containing the billing statements are not promotional materials. The attachment to the return envelopes is promotional material.

(6) **What is the measure of tax?** The measure of the use tax is the value of the article used. For the purposes of computing the use tax due on promotional material, the measure of tax is the total consideration paid for the promotional material without deduction for the cost of materials, labor, author's alterations, or other service charges, even though such charges may be stated or shown separately on invoices. It also includes the amount of any freight, delivery, or other like transportation charge paid or given by the consumer to the seller. The value of the promotional material also includes any tariffs or duties paid. If the total consideration paid does not represent the true value of the article used, the value must be determined as nearly as possible according to

the retail selling price at place of use of similar materials of like quality and character. RCW 82.12.010.

A consumer who has paid retail sales or use tax that is due in another state with respect to promotional material that is subject to use tax in this state may take a credit for the amount of tax so paid. RCW 82.12.035. For further information, refer to WAC 458-20-178 (Use tax).

(a) **Is postage included in the measure of tax?** Postage is included in the measure of tax if the cost is included in the total charge to the consumer by the seller of the promotional material. It is immaterial if the postage charges are stated or shown separately on invoices. Postage is not included in the measure of tax only if it is not included in the consideration paid by the consumer to the seller of the promotional material.

(i) **Example.** A College Place fast-food restaurant contracts with a Hermiston, Oregon, printer to produce and mail 10,000 coupons to Walla Walla County residents. The printer pays for the postage and invoices the restaurant for the actual amount for the postage. Postage is part of the total consideration paid by the restaurant and is included in the measure of tax.

(ii) **Example.** A Vancouver coffee retailer contracts with a Portland, Oregon, firm to print and mail 10,000 flyers promoting the retailer's drive-thru window to neighborhood businesses and residents. The retailer provides the printer with retailer's U.S. Postal Service bulk mail permit imprint to be printed on the flyer. While payment to the U.S. Postal Service for use of the bulk mail permit is the exclusive responsibility of the retailer, the printer advances payment to the U.S. Postal Service to ensure the mailing of the flyers. The printer itemizes the cost of the postage the printer paid to the U.S. Postal Service on behalf of retailer on the sales invoice to retailer. The itemized charge for the postage is not included in the measure of tax.

(b) **What is the measure of tax when a consumer manufactures its own promotional materials?** The measure of tax is the value of the promotional material. Refer to WAC 458-20-112 (Value of products). A consumer who manufactures its own promotional material may also be conducting manufacturing activities and should refer to WAC 458-20-134 (Commercial or industrial use) and WAC 458-20-136 (Manufacturing, processing for hire, fabricating).

(c) **What is the tax result when a consumer contracts with separate firms to perform printing activities and to provide mailing bureau services?** The acquisition of promotional material and the mailing bureau services associated with the distribution of this material are separate taxable incidents. A consumer who distributes or causes the distribution of promotional material into Washington is the consumer of such material, and thus, is taxable to the extent the promotional material has not been subjected to retail sales tax. Mailing bureau services consist of installing, altering, imprinting, or improving tangible personal property and are retail services. The consumer is subject to use tax on these services if the property upon which the service was performed is distributed into Washington. Chapter 367, Laws of 2002.

(i) **Example.** A Bellingham real estate company contracts with a Vancouver, British Columbia, company to print 5,000 flyers on a bi-monthly basis to promote its new listings. The flyers are delivered to a Portland, Oregon, mailing bureau that mails the flyers to Whatcom County residents. The measure of tax is the consideration paid to the Vancouver, British Columbia, printer and the Portland mailing bureau.

(ii) **Example.** A window manufacturer contracts with a Boise, Idaho, printer to produce a flyer offering a discount on purchases of the manufacturer's windows at participating retailers. The printer delivers the flyers to light and power companies in Washington for inclusion in utility statements. The window manufacturer owes use tax on the amount of consideration paid to the printer for producing the flyer and to the utility companies for distributing the flyers.

(7) **Determining the applicable local use tax rate.** For the purposes of determining the applicable rate of local use tax for promotional material, the following guidelines must be followed unless the consumer obtains prior written approval from the department to use an alternative method. Refer to (c) of this subsection for an explanation of the circumstances under which the department will consider approving alternate methods and how to obtain such approval.

(a) **Operations directed from within Washington.** The applicable local taxing jurisdiction and tax rate is the in-state location from where the consumer directs or manages its Washington operations.

(i) **Example.** Store A operates ten locations in western Washington. The company's corporate headquarters, the location from where it manages its in-state operations, is in Seattle. The local use tax rate for Seattle is the applicable rate.

(ii) **Example.** Store B, a national company with headquarters in Chicago, Illinois, operates multiple locations in Washington. The company manages its Washington operations from a location in Spokane. The local use tax rate for Spokane is the applicable rate.

(b) **Operations directed from outside Washington.** A consumer that manages or directs its Washington activities from outside the state must equally apportion the value of the promotional material among the local tax jurisdictions and tax rates from where the consumer conducts its business activities. Promotional material that is targeted to specific business locations of the consumer must be apportioned solely between those business locations. Targeted material is material the consumer can demonstrate was specifically distributed to promote sales of products or services solely at a specific location(s) and at a different price(s) or terms than those offered at all other Washington locations.

(i) **Example.** Retailer C directs the operations of its four Washington stores from its headquarters in Sacramento, California. The store locations are in Seattle, unincorporated King County, Tacoma, and Everett. For purposes of determining use tax liability, twenty-five percent (25%) of the value of the promotional material must be equally apportioned to Seattle, unincorporated King County, Tacoma, and Everett.

(ii) **Example.** Store C, headquartered in Nevada, orders 100,000 flyers from a Portland, Oregon, printer to be mailed to Washington households announcing the opening of its new store in Spokane. Customers will receive a ten percent (10%) discount on all items purchased at the Spokane store. This discount will not apply to purchases made at Store C's other Washington locations. The local use tax rate for Spokane is the applicable rate.

(iii) **Example.** A regional restaurant with locations in western Washington manages the operations of all Washington locations from its headquarters located in Portland, Oregon. The restaurant contracts to have coupon books printed and mailed to households in Clark and Cowlitz counties. The coupons are accepted only at the Vancouver and Longview locations. The value of the promotional material must be equally apportioned to both locations.

(iv) **Example.** A manufacturer located in Ohio has no offices, warehouses, or storefront locations in Washington. A salesperson operating from her Kent home solicits sales from Washington distributors for the manufacturer. The manufacturer mails promotional material to its distributors' customers in Washington. The local use tax rate for Kent is the applicable rate.

(v) **Example.** A wholesale business located in Michigan has no offices, warehouses, or storefront locations in Washington, but does send a salesperson into Washington to solicit sales. The wholesale business mails promotional material to potential customers in Washington. The applicable local use tax rate is a uniform statewide local rate of .005.

(c) **Are there alternative methods for determining the place of first use?** For purposes of reporting use tax on promotional material, the Department may agree to allow a consumer to use another method of determining the applicable local use tax rate provided that the method proposed by the consumer results in an equal or more equitable distribution of the tax. A consumer may request written approval for the use of an alternative method by contacting the department's taxpayer services division at:

Department of Revenue  
Taxpayer Services  
P.O. Box 47478  
Olympia, WA 98504-7478

### WSR 03-04-033

#### EMERGENCY RULES DEPARTMENT OF FISH AND WILDLIFE

[Order 03-07—Filed January 27, 2003, 4:12 p.m.]

Date of Adoption: January 27, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-33-01000Y and 220-33-01000Z; and amending WAC 220-33-010.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is

necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

**Reasons for this Finding:** The season that was adopted on December 18, 2002, has been modified to stay within the sturgeon harvest guideline for the winter season fishery. The fishery will provide an opportunity for the commercial fishers to harvest a portion of their sturgeon allocation during a time frame when impacts to salmonids is minimal. Regulation is consistent with the management guidelines and objectives adopted by the Fish and Wildlife Commission and is consistent with compact action of January 24, 2003. There is insufficient time to promulgate permanent regulations.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal Rules or Standards:** New 0, Amended 0, Repealed 0; or **Recently Enacted State Statutes:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted at Request of a Nongovernmental Entity:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted on the Agency's Own Initiative:** New 1, Amended 0, Repealed 2.

**Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures:** New 0, Amended 0, Repealed 0.

**Number of Sections Adopted Using Negotiated Rule Making:** New 0, Amended 0, Repealed 0; **Pilot Rule Making:** New 0, Amended 0, Repealed 0; or **Other Alternative Rule Making:** New 0, Amended 0, Repealed 0.

**Effective Date of Rule:** Immediately.

January 27, 2003  
J. P. Koenings  
Director  
by Larry Peck

## NEW SECTION

**WAC 220-33-01000Z Columbia River season below Bonneville.** Notwithstanding the provision of WAC 220-33-010, and 220-33-020, it is unlawful for a person to take or possess salmon or sturgeon taken for commercial purposes from Columbia River Salmon Management and Catch Reporting Areas 1A, 1B, 1C, 1D, and 1E, except as provided in the following subsections.

**AREA:** SMCRA 1A, 1B, 1C, 1D, and 1E

**SEASON:** 6:00 a.m. to 6:00 p.m. Tuesday January 28, 2003

6:00 a.m. to 6:00 p.m. Tuesday February 4, 2003

**GEAR:** 9 inch minimum mesh and 9-3/4 inch maximum mesh

**ALLOWABLE SALE:** Sturgeon and adipose fin-clipped salmon.

**SANCTUARIES:** Sandy River.

**OTHER:** Quick reporting required for Washington wholesale dealers, WAC 220-69-240.

**MISCELLANEOUS:** Notwithstanding the provisions of WAC 220-20-010, during open salmon and/or sturgeon seasons fishers may have stored onboard their boats, while fish-

ing, smelt gill nets; and while smelt fishing, fishers may have stored onboard their boats, gill nets of a size that meets the commercial salmon/sturgeon mesh size, weight, and length restrictions for the open salmon/sturgeon season.

## REPEALER

The following section of the Washington Administrative Code is repealed:

**WAC 220-33-01000Y** Columbia River season below Bonneville. (02-306)

The following section of the Washington Administrative Code is repealed effective 6:01 p.m. February 4, 2003:

**WAC 220-33-01000Z** Columbia River season below Bonneville.

**WSR 03-04-035**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**  
(Children's Administration)  
[Filed January 27, 2003, 4:25 p.m.]

Date of Adoption: January 16, 2003.

**Purpose:** The purpose of the emergency rules for group receiving centers (GRC), new chapter 388-140 WAC, is to establish licensing standards immediately for facilities providing out-of-home receiving or emergency care to children for up to thirty days. Licensing standards do not currently exist for GRCs. The emergency rules would provide protection for children placed in facilities in emergency situations. Currently, the one group receiving center in operation is licensed under standards that do not accurately or adequately address the program.

**Statutory Authority for Adoption:** RCW 74.15.030(2), 74.08.090.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

**Reasons for this Finding:** Children's Administration has licensed a facility as a group care program with several waivers as there are no current licensing standards for a group receiving center. After consulting with the assistant attorney general and representatives of the federal IV-E program, we have learned that the approval of waivers jeopardizes federal funds received by Children's Administration to support services to children. Children's Administration is working with stakeholders for the permanent adoption of rules appropriate to this type of facility, and the department has initiated a rule-making proceeding by filing a preproposal statement of inquiry as WSR 02-20-016. The client age range and other sections may be modified during the permanent rule-making process.

**Number of Sections Adopted in Order to Comply with Federal Statute:** New 0, Amended 0, Repealed 0; **Federal**

Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 125, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 125, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 16, 2003

Bonita H. Jacques

for Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**Reviser's note:** The material contained in this filing exceeded the page-count limitations of WAC 1-21-040 for appearance in this issue of the Register. It will appear in the 03-06 issue of the Register.

**WSR 03-04-040  
EMERGENCY RULES  
DEPARTMENT OF TRANSPORTATION**

[Filed January 28, 2003, 3:40 p.m.]

Date of Adoption: January 27, 2003.

Purpose: Amendment of this WAC will detail department procedures for regulating wireless communication access to limited access state highways.

Citation of Existing Rules Affected by this Order:  
Amending WAC 468-58-080.

Statutory Authority for Adoption: RCW 47.52.027.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The current rules do not allow wireless communication property sites direct access onto limited access highways under any circumstances. The adoption of this rule would provide an immediate avenue for the review and assessment of such access applications to facilitate the provision of wireless communication services to the public.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 1, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: Immediately.

January 27, 2003

John F. Conrad

Assistant Secretary  
Engineering and  
Regional Operations

**AMENDATORY SECTION** (Amending Order 109, filed 7/8/87)

**WAC 468-58-080 Guides for control of access on crossroads and interchange ramps.** (1) Fully controlled highways, including interstate.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any "off" or "on" interchange ramp from a fully controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) There shall be no direct connections from the limited access facility in rural areas to local service or frontage roads except through interchanges.

(c) In both urban and rural areas access control on a fully controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(d) Full control of access should be provided along the crossroad from the centerline of a ramp or terminus of a transition taper for a minimum distance of three hundred feet. Upon determination by the department, full control of access may be provided for the first one hundred thirty feet from the centerline of the ramp or terminus of a transition taper and partial control or modified control of access may be provided for the remainder of the distance to the frontage road or local road for a total minimum distance for the two types of control of three hundred feet. Type A, B, C, D ((and)), E, and F road approaches, as defined hereafter under subsection (3) of this section, "general," may be permitted on that portion of the crossroad on which partial or modified control of access is established.

(2) Partially controlled highways.

(a) There shall be no connections to abutting property or local service or frontage roads within the full length of any

"off" or "on" interchange ramp from a partially controlled limited access highway. Such ramp shall be considered to terminate at its intersection with the local road which undercrosses or overcrosses the limited access facility, provided that in urban areas "off" and "on" ramps may be terminated at local streets other than crossroads where necessary to service existing local traffic.

(b) In both urban and rural areas access control on a partially controlled highway shall be established along the crossroad at an interchange for a minimum distance of three hundred feet beyond the centerline of the ramp or terminus of transition taper. If a frontage road or local road is located in a generally parallel position within three hundred fifty feet of a ramp, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad.

(c) Access control limits at the crossroads on a partially controlled highway should be established along the crossroad at a grade intersection for a minimum distance of three hundred feet from the centerline of the nearest directional roadway. If a parallel road is located within three hundred fifty feet of said grade intersection, access control should be established along the crossroad and in addition for a minimum distance of one hundred thirty feet in all directions from the center of the intersection of the parallel road and crossroad. Type D (and), E, and F approaches may be permitted closer than one hundred thirty feet from the center of the intersection only when they already exist and cannot reasonably be relocated.

(d) Access control limits at intersections on modified control highways should be established along the cross road for a minimum distance of one hundred thirty feet from the centerline of a two-lane highway or for a minimum of one hundred thirty feet from centerline of the nearest directional roadway of a four-lane highway. Type D (and), E, and F approaches should be allowed within this area only when no other reasonable alternative is available.

### (3) General.

(a) Access control may be increased or decreased beyond or under the minimum requirements to fit local conditions if so determined by the department.

(b) Type A, B, C, D (and), E, and F approaches are defined as follows:

(i) Type A approach. Type A approach is an off and on approach in legal manner, not to exceed thirty feet in width, for sole purpose of serving a single family residence. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(ii) Type B approach. Type B approach is an off and on approach in legal manner, not to exceed fifty feet in width, for use necessary to the normal operation of a farm, but not for retail marketing. It may be reserved by abutting owner for specified use at a point satisfactory to the state at or between designated highway stations.

(iii) Type C approach. Type C approach is an off and on approach in legal manner, for special purpose and width to be agreed upon. It may be specified at a point satisfactory to the state at or between designated highway stations.

(iv) Type D approach is an off and on approach in a legal manner not to exceed fifty feet in width for use necessary to the normal operation of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

(v) Type E approach is a separated off and on approach in a legal manner, with each opening not exceeding thirty feet in width, for use necessary to the normal operations of a commercial establishment. It may be specified at a point satisfactory to the state at or between designated highway stations.

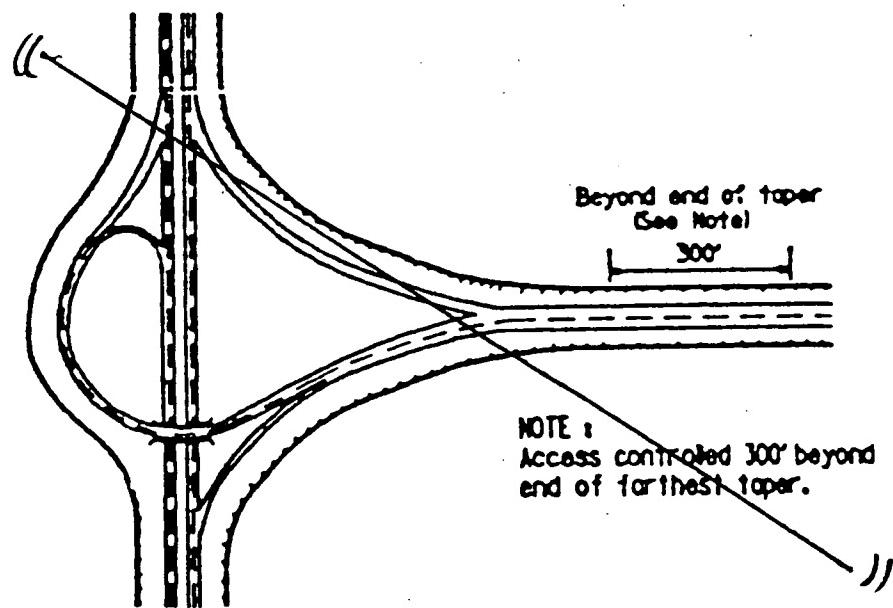
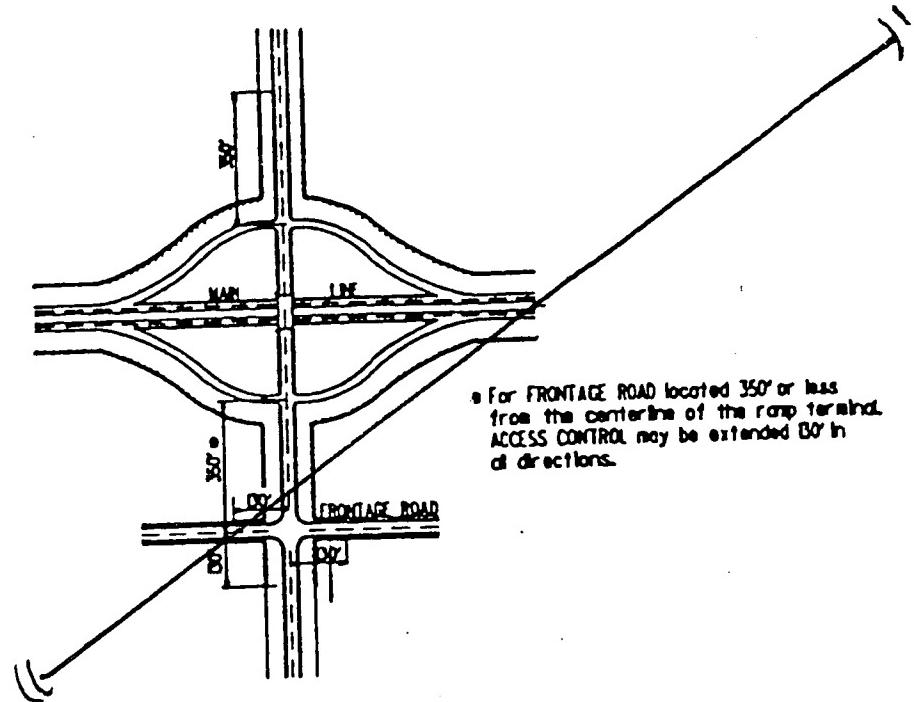
(vi) Type F approach is an off and on approach in a legal manner, not to exceed thirty feet in width, for the sole purpose of serving a wireless communication site. It may be specified at a point satisfactory to the state at or between designated highway stations.

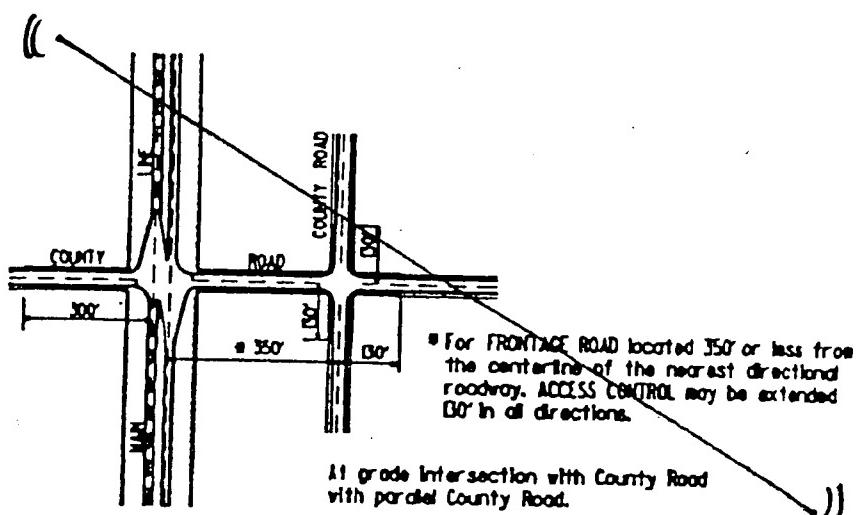
The state shall only authorize such approach by the issuance of a yearly nonassignable permit, which may be canceled upon thirty days written notice for any reason, and only if it meets all state criteria, including, but not limited to, design and safety standards. Only one access user per permit shall be allowed, but more than one permit may be issued for a single Type F approach. Each permitted access user shall be required to pay to the state the full fair market rental value of the access break, as solely determined by the state, at the time of the issuance of the permit and on each yearly renewal date of the permit. The permit shall automatically terminate should permittee not make full rental payment to the state. Since the state is the owner of the access, Type F approach permits shall not be issued pursuant to chapter 47.50 RCW and shall not confer a property right upon the permittee(s). An applicant for a Type F approach permit shall pay a nonrefundable access application fee when application is made in the amount of two thousand five hundred dollars to defray state review, inspection and appraisal costs.

(c) Under no circumstances will a change in location or width of an approach be permitted unless approved by the secretary. Noncompliance or violation of these conditions will result in the immediate closure of the approach.

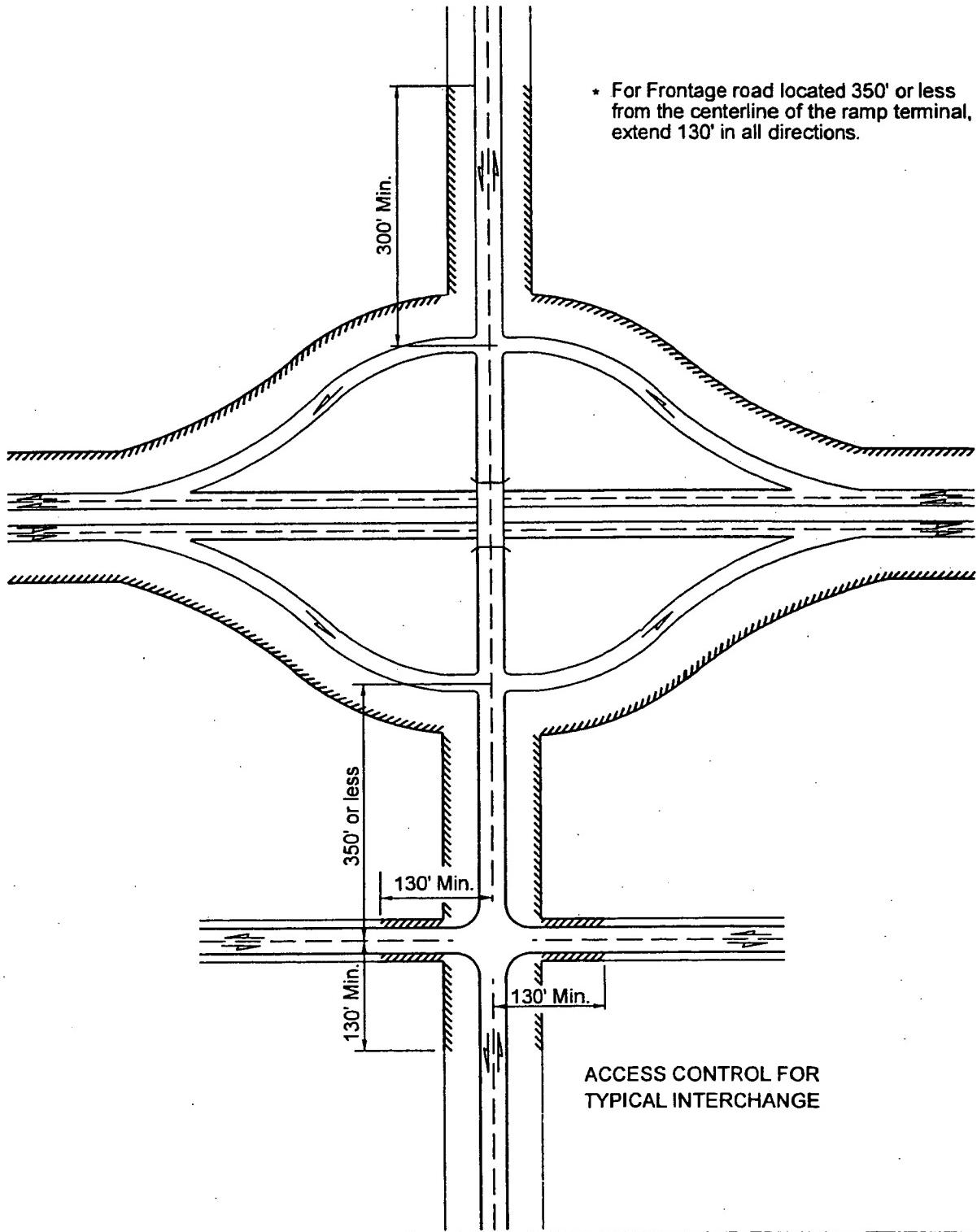
(d) Commercial approaches shall not be permitted within the limits of access control except where modified access control has been approved by the department.

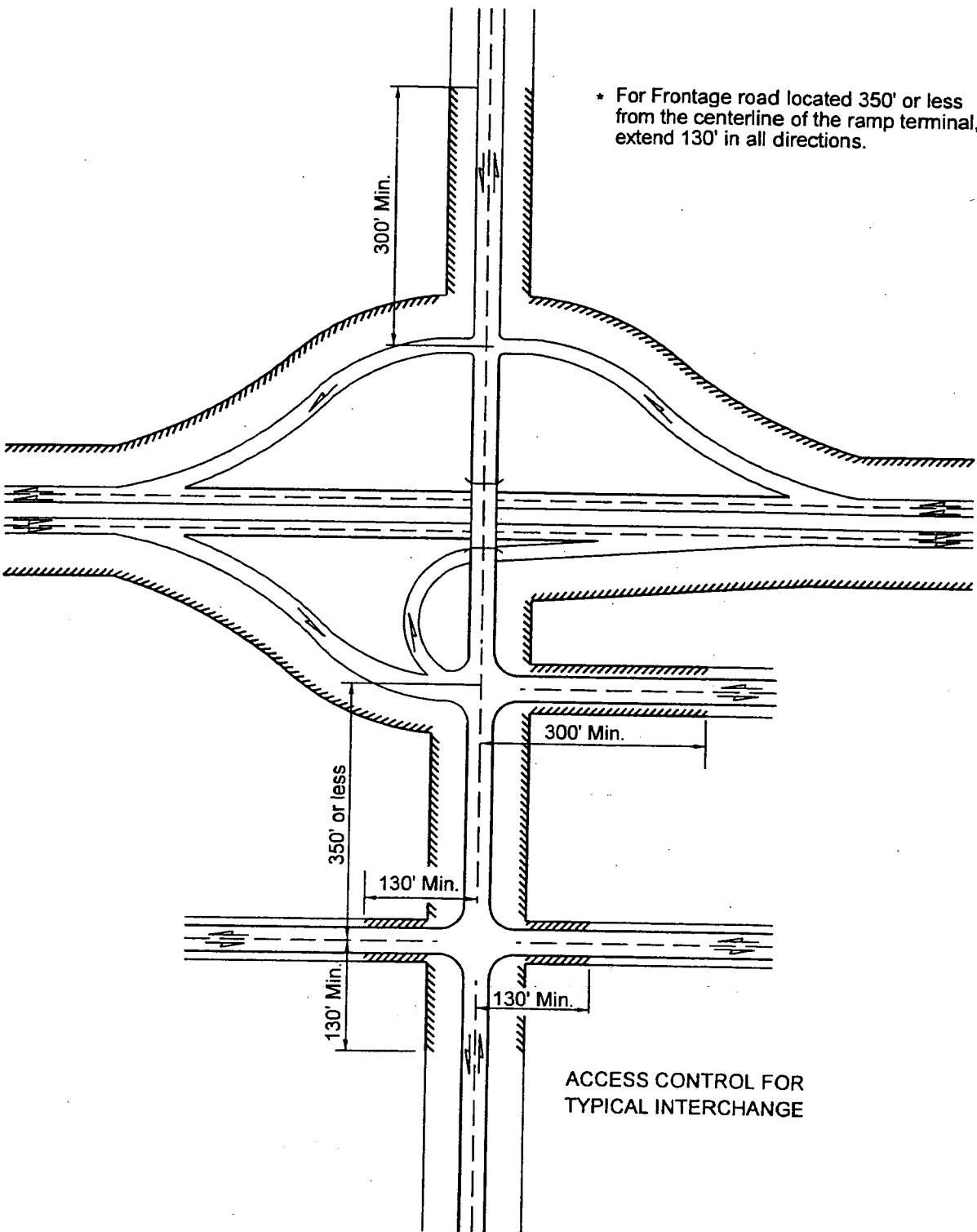
(e) All access control shall be measured from the centerline of the ramps, crossroads or parallel roads or from the terminus of transition tapers. On multiple lane facilities measurement shall be from the centerline of the nearest directional roadway.

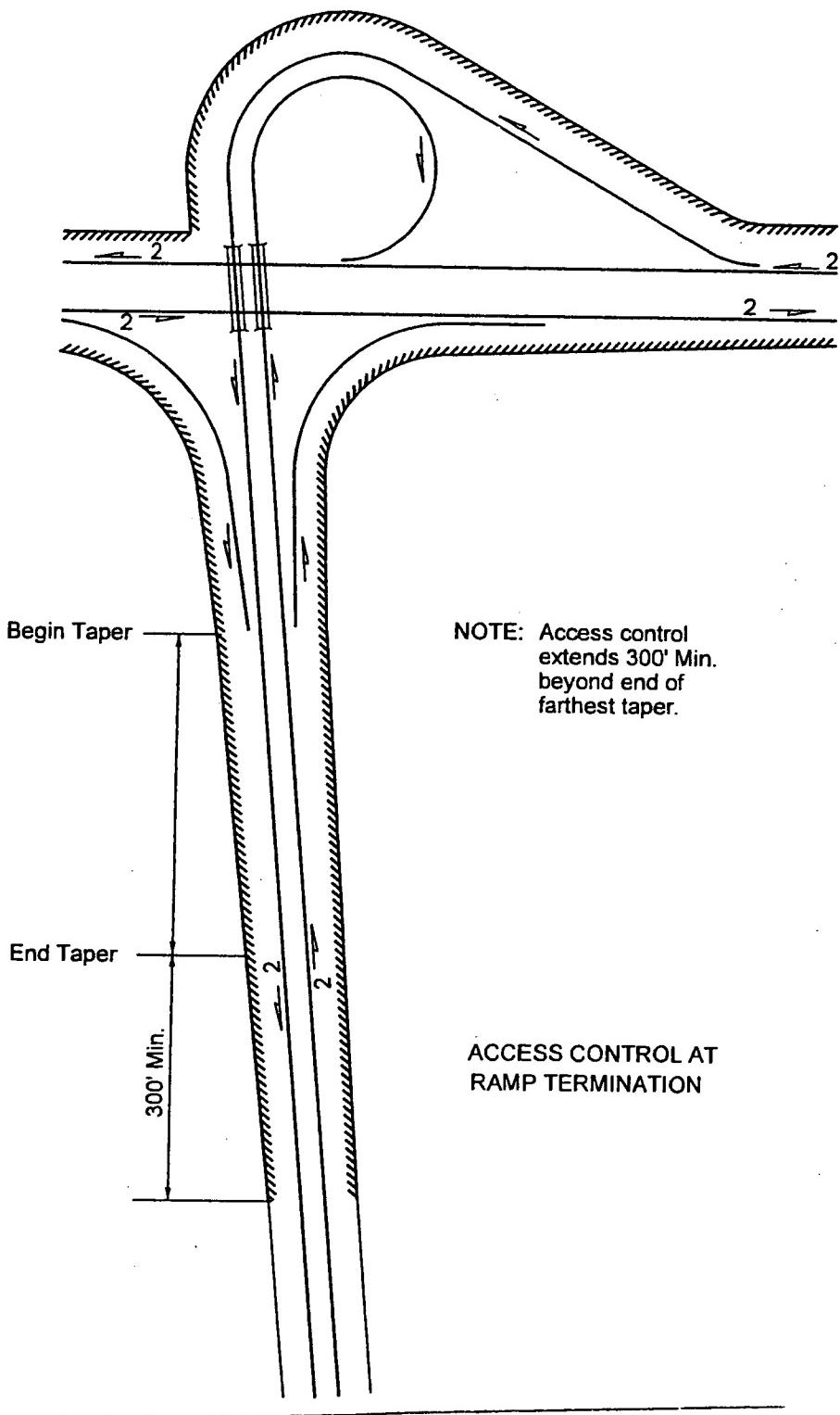


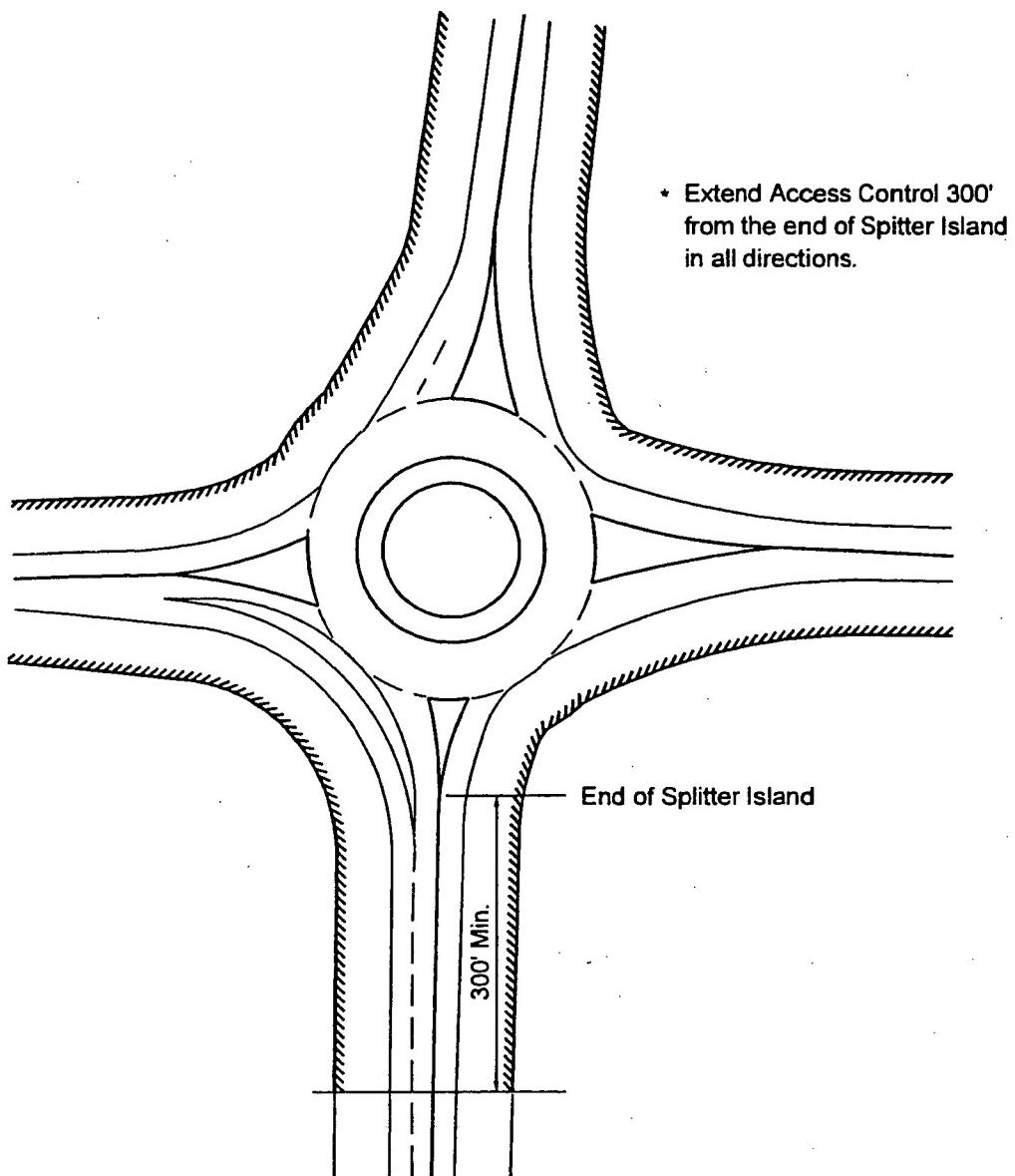


EMERGENCY







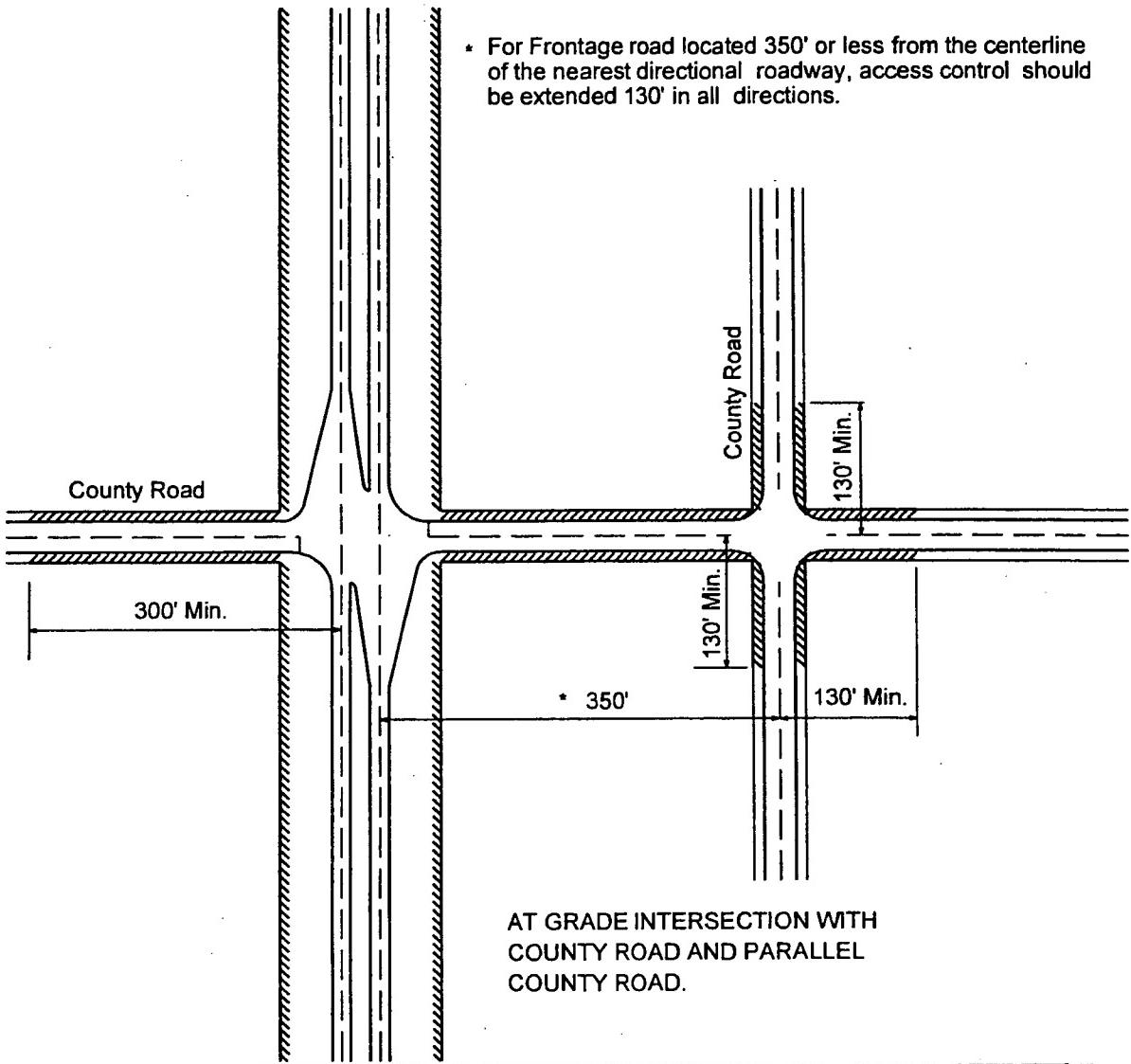


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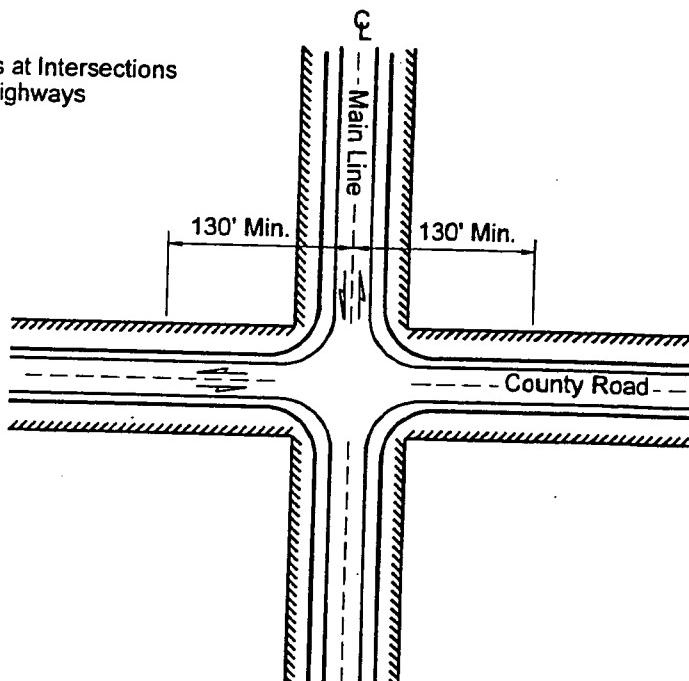
**ACCESS CONTROL FOR TYPICAL ROUNDABOUT**

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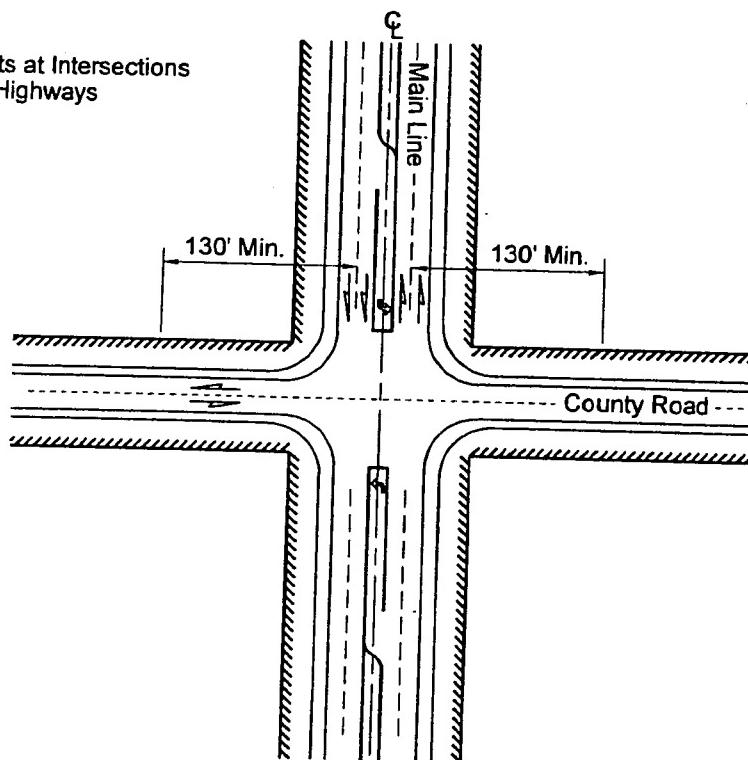
EMERGENCY



Access Control Limits at Intersections  
Modified Control Highways  
Two-Lane



Access Control Limits at Intersections  
Modified Control Highways  
Multi-Lane



ACCESS CONTROL LIMITS AT INTERSECTIONS

EMERGENCY

**WSR 03-04-046**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 03-10—Filed January 28, 2003, 4:26 p.m., effective February 2, 2003, 12:01 a.m.]

Date of Adoption: January 28, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 220-52-04600N; and amending WAC 220-52-046.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Adjustments made to boundaries of noncommercial zones are made to be consistent with state/tribal management plans. The closure of Areas 23A, 23B, 25D, 25B, 25C, and 26A West is to maintain state commercial quota plans. The closure of Areas 24A, 24B, 24C, 24D, and 26A East is due to high percentages of soft crab. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: February 2, 2003, 12:01 a.m.

January 28, 2003  
 J. P. Koenings  
 Director

#### NEW SECTION

**WAC 220-52-04600Q Crab fishery—Seasons and areas.** (1) Notwithstanding the provisions of WAC 220-52-046, it is lawful to fish for Dungeness Crab for commercial purposes as provided herein:

(a) Effective immediately until further notice, that portion of Marine Fish/Shellfish Catch Area 21B in Samish Bay south of a line from Fish Point and Point Williams in water deeper than 60 feet.

(b) Effective immediately until 12:01 a.m. February 16, 2003, those waters of Marine Fish-Shellfish Management and Catch Reporting Area 26A east and north of a line that

extends from Possession Point to the green number 1 buoy at Possession Point thence following the 200 foot contour northward to a point due east from the Glendale Dock, thence extending due west to the Whidbey Island shore.

(2) Notwithstanding the provisions of WAC 220-52-046, it is unlawful to fish for Dungeness Crab for commercial purposes as provided herein:

(a) Effective 12:01 a.m. February 2, 2003 until further notice, it is unlawful to fish for or possess crab taken for commercial purposes from those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 23A, 23B, 25D, 25B, 25C and 26A West.

(b) Effective 12:01 a.m. February 16, 2003 until further notice, it is unlawful to fish for or possess commercial crab taken from those waters of Marine Fish-Shellfish Management and Catch Reporting Areas 24A, 24B, 24C, 24D, and 26A East.

#### REPEALER

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. February 2, 2003:

WAC 220-52-04600N	Crab fishery—Seasons and areas. (02-305)
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**WSR 03-04-047**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**

[Order 03-08—Filed January 28, 2003, 4:26 p.m.]

Date of Adoption: January 28, 2003.

Purpose: Amend personal use fishing rules.

Citation of Existing Rules Affected by this Order:  
 Repealing WAC 232-28-61900B and 232-28-61900E; and amending WAC 232-28-619.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: NOAA fisheries approved hatchery steelhead fisheries in the Upper Columbia steelhead evolutionary significant unit in October 2002. These fisheries may continue with modifications to the emergency rules issued previously. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 28, 2003

J. P. Koenings  
Director

#### NEW SECTION

**WAC 232-28-61900E Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers.** Notwithstanding the provisions of WAC 232-28-619, effective immediately until further notice it is unlawful to violate the following provisions in the following waters:

(1) Columbia River from Highway 395 bridge at Pasco to the Old Hanford townsite wooden power line towers upstream of Ringold Springs Rearing Facility - Open to fish for and possess up to two hatchery steelhead per day through March 31, 2003.

(2) Columbia River from Rocky Reach Dam to Chief Joseph Dam – Open through March 31, 2003. Night closure. Daily limit may contain up to two hatchery steelhead.

(3) Methow River - Mouth upstream to the confluence with the Chewuch River. Open through March 31, 2003. Selective gear rules except it is lawful to fish from motorized vessels. Night closure. Whitefish gear rules do not apply. Daily limit may contain up to two hatchery steelhead.

(4) Okanogan River – Mouth upstream open through March 31, 2003

a) Except closed from Zosel Dam downstream to one-quarter mile below railroad trestle.

b) Except closed February 16, 2003 through March 31, 2003 in those waters between Highway 97 Bridge at Omak and a line 500 feet above Omak Creek.

Selective gear rules except lawful to fish from motorized vessels. Night closure. Daily limit may contain up to two hatchery steelhead.

(5) Similkameen River - Mouth to 400 feet below Enloe Dam – Open through March 31, 2003. Selective gear rules. Night closure. Whitefish gear rules do not apply. Daily limit may contain up to two hatchery steelhead.

#### REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 232-28-61900B

Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers. (02-292)

The following section of the Washington Administrative Code is repealed effective 12:01 a.m. April 1, 2003:

WAC 232-28-61900E

Exceptions to statewide rules—Columbia, Methow, Okanogan and Similkameen rivers.

#### **WSR 03-04-058**

##### **EMERGENCY RULES**

##### **DEPARTMENT OF FISH AND WILDLIFE**

[Order 03-11—Filed January 30, 2003, 8:55 a.m.]

Date of Adoption: January 29, 2003.

Purpose: Amend commercial fishing regulations.

Citation of Existing Rules Affected by this Order: Repealing WAC 220-44-05000R; and amending WAC 220-44-050.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: This regulation is needed to close the state directed pollock fishery while providing for landings of incidental catches of pollock in the directed coastal groundfish fisheries of up to 20% of the landing by weight. The incidental catch allowance accommodates fishers who are targeting other coastal groundfish who may encounter small amounts of pollock as bycatch in those fisheries. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 1, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 29, 2003

J. P. Koenings  
Director  
by Larry Peck

Emergency

NEW SECTION

**WAC 220-44-05000S Coastal bottom fish catch limits.** Notwithstanding the provisions of WAC 220-44-050, effective immediately until further notice:

(1) It is unlawful to possess, transport through the waters of the state, or land into any Washington port bottom fish taken from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63 in excess of the amounts or less than the minimum sizes, or in violation of any gear, handling or landing requirement, established by the Pacific Fisheries Management Council and published in the Federal Register, Volume 67, No. 224, published November 20, 2002. Therefore, persons must consult the federal regulations, which are incorporated by reference and made a part of Chapter 220-44 WAC. Where rules refer to the fishery management area, that area is extended to include Washington State waters coterminous with the Exclusive Economic Zone. A copy of the federal rules may be obtained by contacting Evan Jacoby at (360) 902-2930.

(a) Effective immediately until further notice, it is unlawful to possess, transport through the waters of the state, or land into any Washington port, walleye pollock taken with trawl gear from Marine Fish-Shellfish Management and Catch Reporting Areas 58B, 59A-1, 59A-2, 60A-1, 60A-2, 61, 62, or 63, except by trawl vessels participating in the directed Pacific whiting fishery and the directed coastal groundfish fishery.

(b) Effective immediately until further notice, it is unlawful for trawl vessels participating in the directed Pacific whiting and/or the directed coastal groundfish fishery to land incidental catches of walleye pollock greater than twenty percent of their total landing by weight.

(2) At the time of landing of coastal bottom fish into a Washington port, the fish buyer receiving the fish is required to clearly mark on the fish receiving ticket, in the space reserved for dealer's use, all legally defined trawl gear aboard the vessel at the time of delivery. The three trawl gear types are: midwater trawl, roller trawl and small foot rope trawl (foot rope less than eight inches in diameter). The notation of the gear type(s) aboard the vessel is required prior to the signing of the fish receiving ticket by the vessel representative.

(3) Vessels engaged in chartered research for National Marine Fisheries Service (NMFS) may land and sell bottomfish caught during that research without the catch being counted toward any trip or cumulative limit for the participating vessel. Vessels that have been compensated for research work by NMFS with an Exempted Fishing Permit (EFP) to land fish as payment for such research may land and sell fish authorized under the EFP without the catch being counted toward any trip or cumulative limit for the participating vessel. Any bottomfish landed during authorized NMFS research or under the authority of a compensating EFP for past chartered research work must be reported on a separate fish receiving ticket and not included on any fish receiving ticket reporting bottomfish landed as part of any trip or cumulative limit. Bottomfish landed under the authority of NMFS research work or an EFP compensating research with fish must be clearly marked "NMFS Compensation Trip" on the

fish receiving ticket in the space reserved for dealer's use. The NMFS scientist in charge must sign the fish receiving ticket in the area reserved for dealer's use if any bottomfish are landed during authorized NMFS research. If the fish are landed under the authority of an EFP as payment for research work, the EFP number must be listed in the dealer's use space.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 220-44-05000R

Coastal bottomfish catch limits. (02-291)

**WSR 03-04-066**

**EMERGENCY RULES**

**DEPARTMENT OF**

**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed January 30, 2003, 5:06 p.m., effective February 1, 2003]

Date of Adoption: January 29, 2003.

Purpose: The proposed amendment will eliminate the transitional work expense from authorized WorkFirst support services.

Citation of Existing Rules Affected by this Order: Amending WAC 388-310-0800.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.050, and 78.08A.340.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This change is necessary to save federal TANF funds that are currently being overexpended. If we overexpend federal TANF funds, we must use general state funds to make up the overexpenditure. We do not have the authority to do this because funds have not been appropriated for this purpose.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 1, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: February 1, 2003.

January 29, 2003

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 02-11-130, filed 5/21/02, effective 7/1/02)

**WAC 388-310-0800 WorkFirst—Support services.**

**(1) Who can get support services?**

People who can get support services include:

(a) WorkFirst participants who receive a TANF cash grant;

(b) Sanctioned WorkFirst participants during the two-week participation before the sanction is lifted;

(c) Unmarried or pregnant minors who are income eligible to receive TANF and are:

(i) Living in a department approved living arrangement (WAC 388-486-0005) and are meeting the school requirements (WAC 388-486-0010); or

(ii) Are actively working with a social worker and need support services to remove the barriers that are preventing them from living in a department approved living arrangements and/or meeting the school requirements.

(d) Former WorkFirst recipients who are working at least twenty hours or more per week for up to one year after leaving TANF if they need support services to meet a temporary emergency. This can include up to four weeks of support services if they lose a job and are looking for another one (see also WAC 388-310-1800); or

(e) American Indians who receive a TANF cash grant and have identified specific needs due to location or employment.

**(2) Why do I receive support services?**

Although not an entitlement, you may receive support services for the following reasons:

(a) To help you participate in work and WorkFirst activities that lead to independence.

(b) To help you to participate in job search, accept a job, keep working, advance in your job and/or increase your wages.

(c) You can also get help in paying your child care expenses through the working connections child care assistance program. (Chapter 388-290 WAC describes the rules for this child care assistance program.)

**(3) What type of support services may I receive and what limits apply?**

There is a limit of three thousand dollars per person per program year (July 1st to June 30th) for WorkFirst support services you may receive. Most types of support services have dollar limits.

The chart below shows the types of support services that are available for the different activities (as indicated by an "x") and the limits that apply.

**Definitions:**

- Work-related activities include looking for work or participating in workplace activities, such as community jobs or a work experience position.

- Safety-related activities include meeting significant or emergency family safety needs, such as dealing with family violence. When approved, safety-related support services can exceed the dollar or category limits listed below.

- Some support services are available if you need them for other required activities in your IRP.

Type of support service	Limit	• Work	• Safety	• Other
Reasonable accommodation for employment	\$1,000 for each request	x		
Clothing/uniforms	\$200 per adult per program year	x		
Diapers	\$50 per child per month	x		
Haircut	\$40 per each request	x		
Lunch	Same rate as established by OFM for state employees	x		
Personal hygiene	\$50 per adult per program year	x		
Professional, trade, association, union and bonds	\$300 for each fee	x		
Relocation related to employment (can include rent, housing, and deposits)	\$1,000 per program year	x		
Short-term lodging and meals in connection with job interviews/tests	Same rate as established by OFM for state employees	x		
Tools/equipment	\$500 per program year	x		
Car repair needed to restore car to operable condition	\$500 per program year	x	x	
License/fees/liability insurance	\$600 per program year	x	x	
Mileage, transportation, and/or public transportation	Same rate as established by OFM for state employees	x	x	
Transportation allotment	Up to: \$10 for immediate need, or \$20 twice a month if you live within 40 miles of your local WorkFirst office, or \$30 twice a month if you live more than 40 miles from your local WorkFirst office.	x	x	
Counseling	No limit	x	x	x

Type of support service	Limit	• Work	• Safety	•• Other
Educational expenses	\$300 for each request if it is an approved activity in your IRP and you do not qualify for sufficient student financial aid to meet the cost	x		x
Medical exams (not covered by Medicaid)	\$150 per exam	x	x	x
Public transportation	\$150 per month	x	x	x
Testing-diagnostic	\$200 each	x	x	x

**(4) What are the other requirements to receive support services?**

Other restrictions on receiving support services are determined by the department or its agents. They will decide what support services you receive, as follows:

- (a) It is within available funds; and
- (b) It does not assist, promote, or deter religious activity; and
- (c) There is no other way to meet the cost.

**(5) What ((is)) was a transitional work expense?**

(a) A transitional work expense ((is)) was a special type of support services that is only paid once in a lifetime. It ((is)) was authorized in two payments of five hundred dollars to cover your work expenses and help you exit TANF sooner and stay off of assistance longer. ((The first payment is made in the month after your TANF grant closes if you can show you have a plan for staying employed and off of TANF.

((b)) To qualify for the first transitional work expense payment of five hundred dollars, you must also meet the following conditions:

- ((i)) You are in unsubsidized employment; or
- ((ii)) You are in subsidized employment that does not use TANF funds or does not end with your TANF grant; and
- ((iii)) You are in the assistance unit and getting a TANF/SFA grant of one hundred dollars or less a month; and
- ((iv)) Neither you or anyone else in your assistance unit is in sanction status; and
- ((v)) You voluntarily stop getting your TANF/SFA grant.
- ((e)) Effective February 1, 2003, transitional work expenses are no longer available.

((b)) You may still qualify for the second payment of five hundred dollars if you ((must)) meet the following conditions:

- ((i)) You received your first transitional work expense payment of five hundred dollars on or before January 31, 2003; and
- ((ii)) You have not received a TANF/SFA grant or diversion cash assistance (DCA) for three months after you stopped your TANF/SFA grant; and
- ((iii)) You are still employed.

**(6) What happens to my support services if I do not participate as required?**

The department will give you ten days notice, following the rules in WAC 388-310-1600, then discontinue your support services until you participate as required.

WSR 03-04-067

## EMERGENCY RULES

## DEPARTMENT OF

## SOCIAL AND HEALTH SERVICES

(Economic Services Administration)

[Filed January 30, 2003, 5:10 p.m., effective February 1, 2003]

Date of Adoption: January 29, 2003.

Purpose: In order to limit expenditures under the additional requirements for emergent needs (AREN) program, we must reduce the maximum payment from \$1,500 to \$750 per month.

Citation of Existing Rules Affected by this Order: Amending WAC 388-436-0002.

Statutory Authority for Adoption: RCW 74.08.090, 74.04.510, and 74.08A.340.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: This change is necessary to save federal TANF funds that are currently being overexpended. If we overexpend federal TANF funds, we must use general state funds to make up the overexpenditure. We do not have the authority to do this because funds have not been appropriated for this purpose.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; Recently Enacted State Statutes: New 0, Amended 1, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 1, Repealed 0.

Effective Date of Rule: February 1, 2003.

January 29, 2003

Brian H. Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 00-22-064, filed 10/27/00, effective 12/1/00)

**WAC 388-436-0002 If my family has an emergency, can I get help from DSHS to get or keep our housing or utilities?** DSHS has a program called additional requirements for emergent needs (AREN). If your family has an emergency and you need a one-time cash payment to get or keep safe housing or utilities, you may be eligible. The special AREN payment is in addition to the regular monthly cash grant your family may already get.

(1) To get AREN, you must:

(a) Be eligible for temporary assistance for needy families (TANF), state family assistance (SFA), or refugee cash assistance (RCA);

(b) Have an emergency housing or utility need; and

(c) Have a good reason that you do not have enough money to pay your housing or utility costs.

(2) To get AREN, you must be eligible for TANF, SFA, or RCA. This means you must:

(a) Get benefits through TANF, SFA, or RCA. For RCA you must also be pregnant or have an eligible child; or

(b) Apply for TANF, SFA, and RCA, and meet all eligibility criteria including:

(i) The maximum earned income limit under WAC 388-478-0035;

(ii) The requirement that your unearned income not exceed the grant payment standard;

(iii) The requirement that your countable income as defined under WAC 388-450-0162 must be below the payment standard in WAC 388-478-0020 when you have both earned income and unearned income;

(iv) The resource limits under chapter 388-470 WAC;

(v) The program summary rules for either TANF (WAC 388-400-0005); SFA (WAC 388-400-0010); or RCA (WAC 388-400-0030); and

(vi) The requirement that you must be pregnant or have an eligible child.

(3) If you do not get or do not want to get TANF, SFA or RCA, you cannot get AREN to help with one-time housing or utility costs. We will look to see if you are eligible for diversion cash assistance (DCA) under WAC 388-432-0005.

(4) To get AREN, you must have an emergency housing or utility need. You may get AREN to help pay to:

(a) Prevent eviction or foreclosure;

(b) Get housing if you are homeless or need to leave your home because of domestic violence;

(c) Hook up or prevent a shut off of utilities related to your health and safety. We consider the following utilities to be needed for health and safety:

(i) Electricity or fuel for heating, lighting, or cooking;

(ii) Water;

(iii) Sewer; and

(iv) Basic local telephone service if it is necessary for your basic health and safety.

(d) Repair damage or defect to your home when it causes a risk to your health or safety:

(i) If you own the home, we may approve AREN for the least expensive method of ending the risk to your health or safety;

(ii) If you do not own the home, you must ask the landlord in writing to fix the damage according to the Residential Landlord-Tenant Act at chapter 59.18 RCW. If the landlord refuses to fix the damage or defect, we may pay for the repair or pay to move you to a different place whichever cost is lower.

(e) If you receive TANF or SFA, WorkFirst support services under WAC 388-310-0800 may be used to help you relocate to new housing to get a job, keep a job, or participate in WorkFirst activities. Nonhousing expenses, that are not covered under AREN, may be paid under WorkFirst support services. This includes expenses such as car repair, diapers, or clothing.

(5) To get AREN, you must have a good reason for not having enough money to pay for your housing or utility costs. You must prove that you:

(a) Did not have money available that you normally use to pay your rent and utilities due to an emergency situation that reduced your income (such as a long-term illness or injury);

(b) Had to use your money to pay for necessary or emergency expenses. Examples of necessary or emergency expenses include:

(i) Basic health and safety needs for shelter, food and clothing;

(ii) Medical care;

(iii) Dental care needed to get a job or because of pain;

(iv) Emergency child care;

(v) Emergency expenses due to a natural disaster, accident, or injury; and

(vi) Other reasonable and necessary expenses.

(c) Are currently homeless; or

(d) Had your family's cash grant reduced or suspended when we budgeted your expected income for the month, but the income will not be available to pay for the need when the payment is due. You must make attempts to negotiate later payments with your landlord or utility company before you can get AREN.

(6) In addition to having a good reason for not having enough money to pay for your costs, you must also explain how you will afford to pay for the on-going need in the future. We may deny AREN if your expenses exceed your income (if you are living beyond your means). We may approve AREN to help you get into housing you can afford.

(7) If you meet the above requirements, we decide the amount we will pay based on the following criteria.

(a) AREN payments may be made up to a maximum of ((fifteen)) seven hundred fifty dollars.

(b) We can make the payment all at once or as separate payments over a thirty-day period. The thirty-day period starts with the date of the first payment.

(c) The amount of AREN is in addition to the amount of your monthly TANF, SFA, or RCA cash grant.

(d) We will decide the lowest amount we must pay to end your housing or utility emergency. We will contact your landlord, utility company, or other vendor for information to make this decision. We may take any of the following steps when deciding the lowest amount to pay:

(i) We may ask you to arrange a payment plan with your landlord or utility company. This could include us making a

partial payment, and you setting up a plan for you to repay the remaining amount you owe over a period of time.

(ii) We may have you use some of the money you have available in cash, checking, or savings to help pay for the expense. We will look at the money you have available as well as your bills when we decide how much we will pay.

(iii) We may consider income that is excluded or disregarded for cash assistance benefit calculations, such as SSI, as available to meet your emergency housing need.

(iv) We may consider money other individuals such as family or friends voluntarily give you. We will not count loans of money that you must repay to friends or family members.

(v) We may consider money from a nonneedy caretaker relative that lives in the home.

(vi) We may look at what other community resources you currently have to help you with your need.

(8) Starting August 1, 2000, your family can get AREN for your emergency housing or utility needs for one thirty-day period every twelve months:

(a) The thirty-day period starts on the date we issue your first AREN payment and lasts thirty consecutive days.

(b) The twelve-month period starts the month we issued your first AREN payment. The next time you could be eligible for AREN is the first day of the twelfth month after we issued the first AREN payment. For example, if we issued you AREN on January 15th, you could be eligible again on the first of January the next year.

(c) The limit of one thirty-day period every twelve months applies to the following people even if they leave the assistance unit:

(i) Adults; and

(ii) Minor parents that get AREN when no adults are in the assistance unit.

(d) We do not look at AREN benefits you received before August 1, 2000 when we look to see if you received AREN in the last twelve months.

(9) We pay AREN:

(a) Directly to the landlord, mortgage company, utility, or other vendor whenever we can.

(b) If we cannot pay AREN directly to the landlord or other vendor, we will issue the AREN as a part of your TANF, SFA, or RCA cash grant. If we issue the AREN as a part of your grant, you must use it for your emergency need.

(10) We may assign you a protective payee for your monthly grant under WAC 388-265-1250.

**WSR 03-04-078**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**FISH AND WILDLIFE**  
[Order 03-12—Filed February 3, 2003, 11:19 a.m.]

Date of Adoption: January 31, 2003.

Purpose: Amend commercial fishing rules.

Citation of Existing Rules Affected by this Order:  
Repealing WAC 220-33-01000Z.

Statutory Authority for Adoption: RCW 77.12.047.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: The closure is necessary so that the non-Indian commercial fishery can stay within the guideline of 1,500 sturgeon for the winter sturgeon season. A protocol for annual sturgeon management will be adopted at the February 6, 2003, hearing. Regulation is consistent with compact action of January 31, 2003. There is insufficient time to promulgate permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 1.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Effective Date of Rule: Immediately.

January 31, 2003

J. P. Koenings

Director

by Larry Peck

**REPEALER**

The following section of the Washington Administrative Code is repealed:

WAC 220-33-01000Z

Columbia River season  
below Bonneville. (03-07)

**WSR 03-04-088**  
**EMERGENCY RULES**  
**DEPARTMENT OF**  
**SOCIAL AND HEALTH SERVICES**

(Economic Services Administration)

[Filed February 3, 2003, 1:45 p.m.]

Date of Adoption: January 28, 2003.

Purpose: On June 13, 2002, and October 8, 2002, the DSHS Division of Child Support (DCS) adopted emergency rules to bring the regulations and procedures of DCS into agreement with statutory changes in the 2002 legislative session, namely changes to the Uniform Parentage Act (chapter 302, Laws of 2002) and changes regarding the jurisdiction of DCS (chapter 199, Laws of 2002). DCS started the regular

rule-making process at the same time. DCS continues to work with stakeholders regarding the new rules and must do a third emergency filing to continue the existing rules in place while we develop permanent rules.

Citation of Existing Rules Affected by this Order: Amending WAC 388-14A-3100, 388-14A-3102, 388-14A-3110, 388-14A-3115, 388-14A-3120, 388-14A-3370, and 388-14A-3810.

Statutory Authority for Adoption: RCW 43.05.350 (1)(b), 74.08.090, 34.05.220(1), 74.20A.055, 74.20A.056, and 74.20A.310; chapter 302, Laws of 2002; chapter 199, Laws of 2002.

Under RCW 34.05.350 the agency for good cause finds that state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this Finding: (1) Chapter 302, Laws of 2002, amends the Uniform Parentage Act regarding the affidavit or acknowledgment of paternity; (2) chapter 199, Laws of 2002, amends the statutory jurisdiction of DCS, with effective date of June 13, 2002; and (3) DCS continues to work with stakeholders to develop permanent rules.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 1, Amended 7, Repealed 0.

Number of Sections Adopted at Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's Own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted Using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 1, Amended 7, Repealed 0.

Effective Date of Rule: Immediately.

January 28, 2003

Brian Lindgren, Manager  
Rules and Policies Assistance Unit

**AMENDATORY SECTION** (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

**WAC 388-14A-3100 How does the division of child support establish a child support obligation when there is no child support order?** (1) When there is no order setting the amount of child support a noncustodial parent (NCP) should pay, the division of child support (DCS) serves a support establishment notice on the NCP and the custodial parent. A support establishment notice is an administrative notice that can become an enforceable order for support if nobody requests a hearing on the notice.

(2) DCS may serve a support establishment notice when there is no order that:

(a) Establishes the noncustodial parent's support obligation for the child(ren) named in the notice; or

(b) Specifically relieves the noncustodial parent of a support obligation for the child(ren) named in the notice.

(3) Whether support is based upon an administrative order or a court order, DCS may serve a support establishment notice when parties to a paternity order subsequently marry each other and then separate, or parties to a decree of dissolution remarry each other and then separate. The remaining provisions of the paternity order or the decree of dissolution, including provisions establishing paternity, remain in effect.

(4) Depending on the legal relationship between the NCP and the child for whom support is being set, DCS serves one of the following support establishment notices:

(a) Notice and finding of financial responsibility (NFFR), see WAC 388-14A-3115. This notice is used when the NCP is either the mother or the legal father of the child. WAC 388-14A-3102 describes when DCS uses a NFFR to set the support obligation of a father who has signed ((a)) an acknowledgment or affidavit of paternity ((affidavit)).

(b) Notice and finding of parental responsibility (NFPR), see WAC 388-14A-3120. This notice is used when the NCP was not married to the mother but has filed an affidavit or acknowledgment of paternity. WAC 388-14A-3102 describes when DCS uses a NFPR to set the support obligation of a father who has signed ((a)) an acknowledgment or affidavit of paternity ((affidavit)).

(c) Notice and finding of medical responsibility (NFMR), see WAC 388-14A-3125. This notice is used when DCS seeks to set only a medical support obligation instead of a monetary child support obligation.

**AMENDATORY SECTION** (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

**WAC 388-14A-3102 When the parents have signed ((a)) an acknowledgment or affidavit of paternity ((affidavit)), which support establishment notice does the division of child support serve on the noncustodial parent?** (1) When the parents of a child are not married, they may sign an affidavit of paternity, also called an acknowledgment of paternity. The legal effect of the affidavit or acknowledgment depends on when it is filed, in what state it is filed, and whether both parents were over age eighteen when the affidavit was signed.

(2) For ((paternity)) affidavits or acknowledgments filed on or before August 14, 1997 with the center for health statistics in the state of Washington, the division of child support (DCS) serves a notice and finding of parental responsibility (NFPR). See WAC 388-14A-3120.

(3) For paternity affidavits filed ((on or)) after August 14, 1997 with the center for health statistics in the state of Washington, ((it depends on how much time has elapsed since filing:))

((a)) If less than sixty days have passed since filing, DCS serves a NFPR under WAC 388-14A-3120, because the parents can rescind (withdraw) the affidavit within sixty days of filing and request genetic testing; or

((b)) If sixty or more days has passed since filing,)) DCS serves a notice and finding of financial responsibility (NFFR)

under WAC 388-14A-3115, because the affidavit or acknowledgment has become a conclusive presumption of paternity under ((RCW 26.26.040)) section 305, chapter 302, Laws of 2002.

(4) For ((paternity)) acknowledgments or affidavits filed with the vital records agency of another state, DCS determines whether to serve a NFFR or NFPR depending on the laws of the state where the affidavit is filed.

(5) DCS relies on ((paternity)) the acknowledgment or affidavit((s)), even if the mother ((and the)) or father were eighteen years of age or older at the time they ((signed)) entered the acknowledgment or affidavit, ((or have reached eighteen years of age since signing the affidavit. A party who was under eighteen at the time the affidavit was signed and filed in Washington after August 14, 1997 has sixty days after their eighteenth birthday to void the affidavit; for affidavits filed in other states, the law of the state of filing determines whether the affidavit is voidable)) under section 304, chapter 302, Laws of 2002.

(6) If the mother was married at the time of the child's birth, but not to the man acknowledging paternity, the man to whom she was married must also have signed ((the affidavit to deny)) and filed a denial of paternity within ten days of the child's birth.

(7) If the acknowledgment or affidavit is legally deficient in any way, DCS may refer the case for paternity establishment in the superior court.

(8) If the mother is the noncustodial parent, DCS serves a NFFR.

#### AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

**WAC 388-14A-3110 When can a support establishment notice become a final order?** (1) The notice and finding of financial responsibility (NFFR), notice and finding of parental responsibility (NFPR), or notice and finding of medical responsibility (NFMR) becomes a final, enforceable order if neither the custodial parent or the noncustodial parent objects and requests a timely hearing on the notice. An objection is also called a hearing request.

(2) If a timely objection is filed, the division of child support (DCS) cannot enforce the terms of the notice until a final order as defined in this section is entered.

(3) To be timely, the noncustodial parent must object within the following time limits:

(a) Within twenty days of service, if the noncustodial parent was served in Washington state.

(b) Within sixty days of service, if the noncustodial parent was served outside of Washington state.

(4) To be timely, the custodial parent must object within twenty days of service.

(5) An objection to a support establishment notice is a request for hearing on the notice.

(6) The effective date of the hearing request is the date the division of child support (DCS) receives the request for hearing.

(7) When an NFPR is served, the order will not become a final order if either parent requests genetic testing under

WAC 388-11-048 (or as later amended) within the following time limits:

(a) The noncustodial parent must request genetic testing within twenty days of service, if the noncustodial parent was served in Washington state ((and the affidavit has not yet become a final determination of paternity)).

(b) The noncustodial parent must request genetic testing within sixty days of service, if the noncustodial parent was served outside of Washington state ((and the affidavit has not yet become a final determination of paternity)).

(c) The custodial parent must request genetic testing within twenty days of service ((and may request genetic testing only if the affidavit has not yet become a final determination of paternity).

(d) For parties who have filed paternity affidavits in Washington after August 14, 1997, a request for genetic testing does not by itself operate to rescind the affidavit) of the notice.

(8) The noncustodial parent or custodial parent must make the hearing request or request for genetic testing, either in writing or orally, at any DCS office. See WAC 388-14-500 (or as later amended) regarding oral requests for hearing.

(9) After a timely request for hearing, the final order is one of the following, whichever occurs latest:

(a) An agreed settlement or consent order under WAC 388-11-150 (or as later amended);

(b) An initial decision for which twenty-one days have passed and no party has filed a petition for review (this includes an order of default if neither party appears for hearing); or

(c) A review decision.

#### AMENDATORY SECTION (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

**WAC 388-14A-3115 The notice and finding of financial responsibility is used to set child support when paternity is not an issue.** (1) A notice and finding of financial responsibility (NFFR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.055.

(2) The NFFR:

(a) Advises the noncustodial parent and the custodial parent (who can be either a parent or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFFR fully and fairly advises the parents of their rights and responsibilities under the NFFR.

(b) Includes the information required by WAC 388-11-210 (or as later amended) and RCW 74.20A.055.

(c) Includes the noncustodial parent's health insurance obligation, as required by WAC 388-11-215 (or as later amended).

(d) May include an obligation to provide support for day care or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(e) Warns the noncustodial parent and the custodial parent that at an administrative hearing, the administrative law judge (ALJ) may set the support obligation in an amount

higher or lower than, or different from, the amount stated in the NFFR, if necessary for an accurate support order.

(3) After service of the NFFR, the noncustodial parent and the custodial parent must notify DCS of any change of address, or of any changes that may affect the support obligation.

(4) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFFR. DCS does not give the NCP credit for payments made to any other party after service of a NFFR, except as provided by WAC 388-11-015 and 388-11-280 (or as these sections are later amended).

(5) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFFR is a final order. WAC 388-14A-3110 describes when the notice becomes a final order.

(6) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-11-155 (or as later amended) describes when the obligation under the NFFR can end sooner or later than age eighteen.

(7) If paternity has been established by an affidavit or acknowledgment of paternity ((filed in Washington state on or after August 14, 1997 becomes a legal finding of paternity under RCW 26.26.040 (1)(e) unless it is rescinded (withdrawn) within sixty days of filing. If sixty days have passed since the affidavit or acknowledgment was filed, DCS may serve a NFFR to establish a support obligation)), DCS attaches a copy of the acknowledgment, affidavit, or certificate of birth record information to the notice. A party wishing to challenge the acknowledgment or denial of paternity may only bring an action in court to rescind or challenge the acknowledgment or denial of paternity under sections 307 and 308, chapter 302, Laws of 2002.

(8) If the parents filed a paternity affidavit or acknowledgment of paternity in another state, and by that state's law paternity is therefore conclusively established, DCS may serve a NFFR to establish a support obligation.

(9) A hearing on a NFFR is for the limited purpose of resolving the NCP's accrued support debt and current support obligation. The NCP has the burden of proving any defenses to liability.

**AMENDATORY SECTION** (Amending WSR 00-15-016 and 00-20-022, filed 7/10/00 and 9/25/00, effective 11/6/00)

**WAC 388-14A-3120 The notice and finding of parental responsibility is used to set child support when the father's duty of support is based upon an affidavit of paternity which is not a conclusive presumption of paternity.** (1) A notice and finding of parental responsibility (NFPR) is an administrative notice served by the division of child support (DCS) that can become an enforceable order for support, pursuant to RCW 74.20A.056.

(2) The NFPR differs from a notice and finding of financial responsibility (NFFR)(see WAC 388-14A-3115) because the parties may request genetic testing to contest paternity after being served with a NFPR.

(3) DCS serves a NFPR when:

(a) An affidavit acknowledging paternity is on file with the center for health statistics and was filed before August 14, 1997; or

(b) ((An affidavit acknowledging paternity is on file with the center for health statistics and was filed on or after August 14, 1997 but the sixty day period for rescission has not yet passed; or

(e))) An affidavit acknowledging paternity is on file with the vital records agency of another state and the laws of that state allow the parents to withdraw the affidavit or challenge paternity.

(4) DCS attaches a copy of the acknowledgment of paternity or certification of birth record information to the NFPR.

(5) The NFPR advises the noncustodial parent and the custodial parent (who is either the mother or the physical custodian of the child) of the support obligation for the child or children named in the notice. The NFPR fully and fairly advises the parents of their rights and responsibilities under the NFPR. The NFPR warns the noncustodial parent and the custodial parent that at an administrative hearing on the notice, the administrative law judge (ALJ) may set the support obligation in an amount higher or lower than, or different from, the amount stated in the NFPR, if necessary for an accurate support order.

(6) The NFPR includes the information required by WAC 388-11-210 (or as later amended), RCW 74.20A.055, and 74.20A.056.

(7) The NFPR includes the noncustodial parent's health insurance obligation, pursuant to WAC 388-11-215 (or as later amended).

(8) The NFPR may include an obligation to provide support for day care expenses or special child-rearing expenses, pursuant to chapter 26.19 RCW.

(9) DCS may not assess an accrued support debt for a period longer than five years before the NFPR is served. This limitation does not apply to the extent that the noncustodial parent hid or left the state of Washington for the purpose of avoiding service.

(10) After service of the NFPR, the noncustodial parent and the custodial parent must notify DCS of any change of address, or of any changes that may affect the support obligation.

(11) The noncustodial parent must make all support payments to the Washington state support registry after service of the NFPR. DCS does not give the NCP credit for payments made to any other party after service of the NFPR, except as provided by WAC 388-11-015 and 388-11-280 (or as these sections are later amended).

(12) DCS may take immediate wage withholding action and enforcement action without further notice under chapters 26.18, 26.23, and 74.20A RCW when the NFPR is a final order. See WAC 388-14A-3110 for when the notice becomes a final order.

(13) In most cases, a child support obligation continues until the child reaches the age of eighteen. WAC 388-11-155 (or as later amended) describes when the obligation under the NFPR can end sooner or later than age eighteen.

(14) Either the noncustodial parent, or the mother, if she is also the custodial parent, may request genetic tests under

WAC 388-11-048 (or as later amended), notwithstanding the language of WAC 388-11-048, which refers only to the father. A mother who is not the custodial parent may at any time request that DCS refer the case for paternity establishment in the superior court.

(15) DCS does not stop enforcement of the order unless DCS receives a timely request for hearing or a timely request for genetic tests. See WAC 388-14A-3110 for time limits. DCS does not refund any money collected under the notice if the noncustodial parent is later:

- (a) Excluded from being the father by genetic tests; or
- (b) Found not to be the father by a court of competent jurisdiction.

(16) If the noncustodial parent requested genetic tests and was not excluded as the father, he may request within twenty days from the date of service of the genetic tests in Washington, or sixty days from the date of service of the genetic tests outside of Washington:

- (a) A hearing on the NFPR;
- (b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(17) If the noncustodial parent was not excluded as the father, the mother, if she is also the custodial parent, may within twenty days of the date of service of the genetic tests request:

- (a) A hearing on the NFPR; or
- (b) That DCS initiate a parentage action in superior court under chapter 26.26 RCW.

(18) ~~((If the affidavit or acknowledgment was filed in Washington after August 14, 1997, but sixty days have not passed since filing, DCS serves a NFPR. If the NCP wishes to contest paternity he must reseind (withdraw) the acknowledgment at the center for health statistics before the sixty day period ends or there will be a legal finding of paternity under RCW 26.26.040 (1)(e). A request to DCS for genetic testing is not sufficient to withdraw the paternity affidavit.~~

~~((19)))~~ If the NCP is excluded by genetic testing, DCS may refer the case for paternity establishment in the superior court.

~~((20)))~~ ~~((19))~~ A hearing on a NFPR is for the limited purpose of resolving the accrued support debt, current support obligation and reimbursement to DCS for paternity-related costs. The NCP has the burden of proving any defenses to liability.

## NEW SECTION

**WAC 388-14A-3122 When the rescission period has not yet passed for an affidavit or acknowledgment filed between August 14, 1997 and June 13, 2002, which support establishment notice does the division of child support serve when the father is the noncustodial parent?** (1) The division of child support (DCS) serves a notice and finding of parental responsibility (NFPR) under WAC 388-14A-3120 if:

- (a) The parents filed an affidavit or acknowledgment of paternity with the department of health between August 14, 1997 and June 13, 2002;

(b) The sixty-day rescission period has not yet passed; and

(c) The father is the noncustodial parent.

(2) Either the father or the custodial parent may request a hearing on the terms of the NFPR.

(3) The father, or the mother if she is also the custodial parent, may request genetic tests on the NFPR if the acknowledgment or affidavit of paternity has not yet become a final determination of paternity.

(4) A party who requests genetic testing from DCS on an acknowledgment or affidavit of paternity filed with the department of health between August 14, 1997 and June 13, 2002, but within the sixty-day rescission period, must also file a rescission with the department of health. Requesting genetic testing does not stop the acknowledgment or affidavit from becoming final.

## AMENDATORY SECTION (Amending 01-03-089, filed 1/17/01, effective 2/17/01)

**WAC 388-14A-3370 What legal defenses are available to a noncustodial parent when DCS seeks to enforce a support obligation?** (1) A noncustodial parent (NCP) who objects to a notice and finding of financial, parental, or medical responsibility has the burden of establishing defenses to liability. Defenses include, but are not limited to:

- (a) Proof of payment;
- (b) The existence of a superior court or administrative order that sets the NCP's support obligation or specifically relieves the NCP of a support obligation for the child(ren) named in the notice;
- (c) The party is not a responsible parent as defined by RCW 74.20A.020(7);
- (d) The amount requested in the notice is inconsistent with the Washington state child support schedule, Chapter 26.19 RCW;
- (e) Equitable estoppel, subject to WAC 388-14A-6500; or
- (f) Any other matter constituting an avoidance or affirmative defense.

(2) A dependent child's or a custodial parent's ineligibility to receive public assistance is not a defense to the assessment of a support obligation.

(3) An NCP may be excused from providing support for a dependent child ~~((receiving public assistance under chapter 74.12 RCW))~~ if the NCP is the legal custodian of the child and has been wrongfully deprived of physical custody of the child. The NCP may be excused only for any period during which the NCP was wrongfully deprived of custody. The NCP must establish that:

- (a) A court of competent jurisdiction of any state has entered an order giving legal and physical custody of the child to the NCP;
- (b) The custody order has not been modified, superseded, or dismissed;
- (c) The child was taken or enticed from the NCP's physical custody and the NCP has not subsequently assented to deprivation. Proof of enticement requires more than a show-

ing that the child is allowed to live without certain restrictions the NCP would impose; and

(d) Within a reasonable time after deprivation, the NCP exerted and continues to exert reasonable efforts to regain physical custody of the child.

**AMENDATORY SECTION** (Amending 01-03-089, filed 1/17/01, effective 2/17/01)

**WAC 388-14A-3810 Once a child support order is entered how long does the support obligation last?** (1) A noncustodial parent's obligation to pay support under an administrative order continues until:

- (a) A superior or tribal court order supersedes the order;
  - (b) The order is modified under WAC 388-14A-3925;
  - (c) The child reaches eighteen years of age;
  - (d) The child is emancipated;
  - (e) The child marries;
  - (f) The child becomes a member of the United States armed forces;
  - (g) The child or the responsible parent die;
  - (h) A responsible stepparent's marriage is dissolved;
- ((er))
- (i) The parties to the order marry or remarry, as provided in WAC 388-14A-3100(3); or
- (j) A superior court order terminates the responsible parent's liability as provided under RCW 26.16.205.

(2) As an exception to the above rule, a noncustodial parent's obligation to pay support under an administrative order continues and/or may be established for a dependent child who is:

- (a) Under nineteen years of age; and
- (b) A full-time student reasonably expected to complete a program of secondary school or the equivalent level of vocational or technical training before the end of the month in which the student becomes nineteen years of age.

(3) A noncustodial parent's obligation to pay support under an administrative order may be temporarily suspended when the:

- (a) Noncustodial parent (NCP) resides with the child for whom support is sought for purposes other than visitation;
- (b) NCP reconciles with the child and the custodial parent; or
- (c) Child returns to the residence of the NCP from a foster care placement, for purposes other than visitation.

(4) When the NCP's obligation to pay current support on a case is suspended under subsection (3) of this section, the division of child support (DCS) informs the NCP that the obligation is suspended, in writing, sent by regular mail to the NCP's last known address.

(5) If circumstances causing an NCP's support obligation to be temporarily suspended change, the support obligation resumes. DCS sends the NCP a notice that the obligation to make current support payments has resumed.



**WSR 03-04-002**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF AGRICULTURE**  
(Wine Commission)  
[Memorandum—January 21, 2003]

Below are the Washington Wine Commission 2003 meeting dates, times, and locations:

February 7	Seattle
March 7	Seattle
April 4	Seattle
May 2	Pasco
June 6	Pasco
July 11	Seattle
August 1	Seattle
September 5	Pasco
November 7	Seattle
December 5	Seattle

All meetings are scheduled from 9 a.m. - noon.

Pasco Location: Gordon Brothers Estate, 5960 Burden Boulevard, Pasco, WA 99301.

Seattle Location: Washington Wine Commission, Goodwin Library, 93 Pike Street, Seattle, WA 98101.

If you need any additional information, please feel free to call Kim Abello at (206) 667-9463 x200 or via e-mail [kabello@washingtonwine.org](mailto:kabello@washingtonwine.org).

July 23, 2003
July 31, 2003, at 1:30 p.m.
August 13, 2003
August 27, 2003
September 10, 2003
September 24, 2003
October 8, 2003
October 22, 2003
October 29, 2003
November 12, 2003, at 1:30 p.m.
November 26, 2003
December 10, 2003
December 31, 2003

All commission meetings will commence at 9:30 a.m. on the scheduled day unless otherwise noted. The meetings will be held in the Commission's Main Hearing Room, Second Floor, Chandler Plaza Building, 1300 South Evergreen Park Drive S.W., Olympia, WA.

Assistance with sign language interpreters or information in alternate formats will be provided when requested ten days prior to the meeting date, by contacting the ADA coordinator at (360) 664-1133 or TTY (877) 210-5963.

**WSR 03-04-005**  
**NOTICE OF PUBLIC MEETINGS**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**  
[Memorandum—January 24, 2003]

The following is the schedule for the 2003 regular public meetings of the Washington Utilities and Transportation Commission:

January 8, 2003
January 22, 2003
January 29, 2003
February 12, 2003
February 28, 2003
March 12, 2003
March 26, 2003
April 9, 2003
April 23, 2003
April 30, 2003
May 14, 2003
May 28, 2003
June 11, 2003
June 27, 2003
July 9, 2003

**WSR 03-04-006**  
**AGENDA**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed January 24, 2003, 2:51 p.m.]

The Washington Utilities and Transportation Commission submits its semi-annual report rule development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

Please direct any questions to Karen M. Caille at (360) 664-1136 or [kcaille@wutc.wa.gov](mailto:kcaille@wutc.wa.gov).

**Utilities and Transportation Commission**  
**Semi-Annual Rules Development Agenda**  
**(January 1, 2003 - June 30, 2003)**

This report is the Utilities and Transportation Commission's semi-annual report rule development agenda for publication in the Washington State Register pursuant to RCW 34.05.314.

Additional rule-making activity not on the agenda may be undertaken to meet conditions not now anticipated.

Dates that are in "bold" print, indicate that filing has occurred. All other dates are projected. The commission maintains a schedule of rule-making activity that is updated several times per month. See <[www.wutc.wa.gov](http://www.wutc.wa.gov)>.

WAC CHAPTER	TITLE	AGENCY CONTACT	PROPOSED TIMELINE			DESCRIPTION OF CHANGES
			CR-101	CR-102	CR-103	
Chapter 480-09 WAC	Procedural rules.	Dennis Moss Administrative Law Division (360) 664-1164	6/1/01	6/27/03	8/27/03	Review of commission procedural rules.
WAC 480-15 480-30 480-51 480-70 480-75 480-90 480-92 480-100 480-110 480-120 480-121 480-140 480-146	Rule on reporting transactions between regulated companies and subsidiaries.	Fred Ottavelli Regulatory Services (360) 664-1297	10/2/02	3/26/03	5/28/03	Consider establishing rules that would require reporting of transactions between regulated companies and their subsidiaries.
WAC 480-62-320	Petition for rule making on locomotive remote technology train operations.	Mike Rowswell Rail Safety (360) 664-1205	1/24/03	9/10/03	11/26/03	Consider adopting or amending rules related to public and employee safety and the protection of property from damage associated with remote control locomotive operations.
Chapter 480-30 WAC Chapter 480-40 WAC	Bus rules.	Bonnie Allen Regulatory Services (360) 664-1226	5/28/02	4/9/03	7/23/03	Review of rules as a result of Governor Locke's Executive Order 97-02.
Chapter 480-93 WAC	Pipeline safety rules.	Sondra Walsh Pipeline Safety (360) 664-1286	8/9/01	7/23/03	1/2004	Review of rules as a result of Governor Locke's Executive Order 97-02.
WAC 480-100-238 480-90-238	Resource planning rules.	Graciela Etchart Regulatory Services (360) 664-1310	3/26/03	12/2003	3/2004	Consider resource planning policy revisions. Review of rules as a result of Governor Locke's Executive Order 97-02.
Chapter 480-04 WAC	Public access to information and records.	Not assigned	4/2003 (estimated)	To be determined	To be determined	Update rules.
Chapter 480-11 WAC	SEPA procedures.	Not assigned	4/2003 (estimated)	To be determined	To be determined	Reference Department of Ecology rules; identify commission's responsible official.
Chapter 480-62 WAC	Railroad companies—Operations.	Mike Rowswell Rail Safety (360) 664-1265	6/11/03	1/2004	3/2004	Consider the following new rules: Specify deadline for return of defect report; crossing inspection requirements by railroad; records requirement relating to crossing inspections, community notice requirements; names, addresses and phone numbers of persons responsible for crossing repairs, signal repairs, and other problems; railroads responsible for crossing and signal maintenance; definition of severe crossing defects, and a requirement for immediate repair of such defects; and reporting complaints from citizens or governmental entities to the commission or retaining records of such complaints.
Title 480 WAC	Adoption by reference.	Not assigned	4/2003 (estimated)	To be determined	To be determined	Update adoption-by-reference dates in Title 480 WAC.

Carole J. Washburn  
Secretary

**WSR 03-04-008**
**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 24, 2003, 3:35 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 02-91 MAA.

Subject: Targeted vendor rate increase.

Effective Date: January 1, 2003, Dates of service.

Document Description: Effective for claims with dates of service on and after January 1, 2003, the Medical Assistance Administration (MAA) will implement a targeted vendor rate increase. The vendor rate increase will be allocated as discussed in the memorandum.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

January 17, 2003

E. A. Myers, Manager  
Rules and Publications Section

**WSR 03-04-009**
**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 24, 2003, 3:36 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 02-92 MAA.

Subject: Year 2003 changes and additions to CPT and HCPCS codes for physician-related services.

Effective Date: January 1, 2003, Dates of service.

Document Description: **Effective for claims with dates of service on and after January 1, 2003**, the Medical Assistance Administration (MAA) will begin using the Year 2003 CPT™ and HCPCS Level II code additions as discussed in this memorandum. Maximum allowable fees for the year 2003 additions and 2003 base anesthesia units (BAU) are also included.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

January 17, 2003

E. A. Myers, Manager  
Rules and Publications Section

**WSR 03-04-010**
**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 24, 2003, 3:38 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 02-96 MAA.

Subject: Vendor rate increase for dental anesthesia, new procedure codes billable, and corrections to November 2002 dental billing instructions.

Effective Date: Dates of service on and after January 1, 2003.

Document Description: Effective with dates of service on and after January 1, 2003, MAA is implementing a vendor rate increase for dental anesthesia, as part of the targeted vendor rate increase authorized by the 2002 legislature. MAA is adding three new procedure codes for root canal retreatment and publishing corrections to the dental billing instructions, dated November 2002.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

January 17, 2003

E. A. Myers, Manager  
Rules and Publications Section

**WSR 03-04-011**
**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 24, 2003, 3:39 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 03-01 MAA.

Subject: Replacement pages for MSS billing instructions.

Effective Date: January 1, 2003.

Document Description: The purpose of this memorandum is to issue maternity support services providers updated replacement pages for the Medical Assistance Administration's (MAA) maternity support services billing instructions, dated March 2002. On page E.7, the family planning performance measure has been updated to include the most current birth control measures which are available and increase the time to complete the performance measure to sixty days post pregnancy.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360)

MISC.

725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

January 17, 2003

E. A. Myers, Manager  
Rules and Publications Section

**WSR 03-04-012**

**INTERPRETIVE OR POLICY STATEMENT  
DEPARTMENT OF  
SOCIAL AND HEALTH SERVICES**

[Filed January 24, 2003, 3:40 p.m.]

**DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Numbered Memorandum 03-02 MAA.

Subject: Prescription service by mail available to medical assistance fee-for-service clients.

Effective Date: February 1, 2003.

Document Description: Effective February 1, 2003, Medco Health Solutions, Inc., a national prescription benefits manager, has contracted with the Medical Assistance Administration (MAA) to distribute prescription drugs by mail. There is no charge to providers or clients for this service.

To receive a copy of the interpretive or policy statement, contact Kevin Sullivan, Regulatory Improvement Coordinator, Department of Social and Health Services, Medical Assistance Administration, Division of Program Support, P.O. Box 45533, Olympia, WA 98504-5533, phone (360) 725-1344 or go to website <http://maa.dshs.wa.gov> (click on Numbered Memorandum link), TDD 1-800-848-5429, fax (360) 586-9727, e-mail mailto:sullikm@dshs.wa.gov.

January 17, 2003

E. A. Myers, Manager  
Rules and Publications Section

**WSR 03-03-014**

**NOTICE OF PUBLIC MEETINGS  
BATES TECHNICAL COLLEGE**

[Memorandum—January 23, 2003]

The board of trustees of Bates Technical College will meet in special session on January 28, 2003, from 5:00 p.m. to approximately 7:00 p.m. in the President's Conference Room, 1101 South Yakima Avenue, Tacoma, for the purpose of discussion personnel issues. No action will be taken during executive session.

**WSR 03-04-015**

**NOTICE OF PUBLIC MEETINGS  
DEPARTMENT OF AGRICULTURE  
(Dairy Products Commission)  
[Memorandum—January 24, 2003]**

**Washington Dairy Products Commission  
Meeting Schedule  
January - December 2003**

Date	Location	Time
January	No commission meeting	
February 6	Washington Dairy Center 4201 198th Street S.W. Suite 101 Lynnwood, WA 98036	8:00
March 5	Washington Dairy Center	9:30
April 1	Doubletree Hotel Boise, ID	TBD
May 7	Washington Dairy Center	9:30
June 20	Embassy Suites Hotel 20610 44th Avenue West Lynnwood, WA 98036	9:30
July 30	Washington Dairy Center	9:30
August	No meeting	
September 17-18	Washington Dairy Center	9:30
October 27	Red Lion Yakima Center Hotel 607 East Yakima Avenue Yakima, WA 98901	TBD
November	No meeting	
December 4-5	Washington Dairy Center	9:30

The above meetings are subject to change. Please confirm all meetings with Celeste Piette at (425) 672-0687 to verify date, time, and location. In addition, some meeting times are still to be determined.

**WSR 03-04-016**

**NOTICE OF PUBLIC MEETINGS  
EASTERN WASHINGTON UNIVERSITY  
[Memorandum—January 27, 2003]**

**BOARD OF TRUSTEES  
OPEN COMMITTEE MEETINGS NOTICE**

**Eastern Washington University  
516 5th Street  
Cheney, WA 99004**

On Friday, January 24, 2003, the board of trustees of Eastern Washington University will be holding meetings according to the following schedule. We anticipate a quorum of the board to be present at these meetings.

**7:30 - 8:00 a.m.**  
 Academic Affairs Committee  
 PUB 261  
 (To approve the Early Head Start Program Budget)

**8:00 a.m. - 12:00 p.m.**  
 Committee of the Whole  
 PUB 205/206  
 (A budget workshop—No final action will be taken)

**12:00 - 3:00 p.m.**  
 Board of Trustees Meeting  
 PUB 263, 5, 7  
 (Executive Session, PUB 261, 12:00 - 1:00 p.m.)  
*(or earlier depending on the ending time of the morning meeting)*  
 (Open Public Meeting 1:00 - 3:00 p.m.)

Olympia, WA 98504-7471, phone (360) 570-5865, fax (360) 586-7602.

Alan R. Lynn  
 Rules Coordinator

#### WSR 03-04-034

#### NOTICE OF PUBLIC MEETINGS DEPARTMENT OF AGRICULTURE

(Barley Commission)  
 [Memorandum—January 24, 2003]

To keep in compliance with the Open Public Meetings Act the Washington Barley Commission is filing the following schedule of the times, dates, and locations of our 2003 scheduled meetings:

Meeting Type	Date	Time
Regular Meeting	March 26, 2003	9:00 a.m.
Annual Meeting	June 30, 2003	9:00 a.m.
Regular Meeting	October 1, 2003	9:00 a.m.
Regular Meeting	December 12, 2003	9:00 a.m.

All of the meetings will be held in the Washington Wheat Commission's Conference Room, West 907 Riverside Avenue, Spokane, WA.

If you have any questions, please call our office at (509) 456-4400.

#### WSR 03-04-018

#### NOTICE OF PUBLIC MEETINGS

#### OFFICE OF THE GOVERNOR

(Clemency and Pardons Board)  
 [Memorandum—January 24, 2003]

The Washington State Clemency and Pardons Board hereby files with the code reviser the following schedule of its regular meetings for 2003:

The March 14 meeting of the Clemency and Pardons Board will be held at the Department of Labor Industries Headquarters, 7273 Linderson Way S.W., Conference Room S118, Tumwater, WA, starting at 10:00 a.m.; the June 13, September 12 and December 12, 2003, meetings of the Clemency and Pardons Board will be held in the John A. Cherberg Building, Hearing Room 4, Olympia, Washington, starting at 10:00 a.m.

#### WSR 03-04-029

#### INTERPRETIVE STATEMENT

#### DEPARTMENT OF REVENUE

[Filed January 27, 2003, 3:26 p.m.]

#### CANCELLATION OF INTERPRETIVE STATEMENT

This announcement is being published in the Washington State Register pursuant to the requirements of RCW 34.05.230(4).

The Department of Revenue cancelled the following Property Tax Bulletin (PTB) effective January 27, 2003:

**PTB 91-3 (Forest Land Classification/Designation: Change of Status, Valuations, and Compensating Tax Calculations).** The information provided in this document has been updated and incorporated into WAC 458-30-700 Designated forest land—Removal—Change in status—Compensating tax.

Questions regarding these cancellations may be directed to Velinda Brown, Property Tax Division, P.O. Box 47471,

#### WSR 03-04-036

#### NOTICE OF PUBLIC MEETINGS

#### OFFICE OF THE GOVERNOR

(Clemency and Pardons Board)  
 [Memorandum—January 27, 2003]

On January 31, 2003, at 2:30 p.m. there will be a conference call among the board members to discuss the Adolpho Hinjosa case. A speaker phone will be available for public participation at the Office of the Governor, Insurance Building, Second Floor, 302 14th Avenue S.W., Olympia, WA.

#### WSR 03-04-037

#### NOTICE OF PUBLIC MEETINGS

#### NOXIOUS WEED CONTROL BOARD

[Memorandum—January 28, 2003]

The next meeting of the Washington State Noxious Weed Control Board will be at 8 a.m., Tuesday, March 18, 2003, Campbell's Resort, 104 West Woodin, Chelan, WA 98816.

**WSR 03-04-039**  
**AGENDA**  
**DEPARTMENT OF**  
**FINANCIAL INSTITUTIONS**  
[Filed January 28, 2003, 1:56 p.m.]

**Department of Financial Institutions**  
**Semi-Annual Agenda for Rules Under Development**  
**January 1, 2003 - June 30, 2003**

**DIVISION OF BANKS**

1. The division plans to file a proposed rule to amend chapter 208-512 WAC to reform the rules governing lending limits of state-chartered commercial banks.

2. The division plans to file a proposed rule to amend chapter 208-544 WAC to increase the fees the division charges up to the fiscal growth factor under chapter 43.135 RCW and to allow a waiver of fee and assessment increases.

**DIVISION OF CONSUMER SERVICES**

1. Amendments to chapter 208-680 WAC, Escrow Agent Registration Act, to provide guidance to escrow agents performing collection escrows, to address technical concerns in the area of trust accounting, and to provide additional definitions of terms.

2. Amendments to chapter 208-620 WAC, Consumer Loan Act, to reflect changes to the statute, to update and modernize the rules, and to provide additional guidance to licensees regarding the conduct of mortgage brokerage activities under the Consumer Loan Act.

**DIVISION OF CREDIT UNIONS**

1. The division may file a proposed rule to amend chapter 208-418 WAC to increase the asset assessment fees and exam hourly rates for fiscal years 2004 and 2005 up to the fiscal growth factor.

**DIVISION OF SECURITIES**

1. The division may amend WAC 460-42A-081 to recognize the Toronto Stock Exchange for purposes of secondary trading.

**WSR 03-04-041**  
**POLICY STATEMENT**  
**DEPARTMENT OF HEALTH**  
[Filed January 28, 2003, 4:13 p.m.]

**NOTICE OF ADOPTION OF A POLICY STATEMENT**

Title of Policy: Health Care Assistant Supervision, Finger Sticks.

Issuing Entity: Department of Health.

Subject Matter: This interpretive statement describes appropriate supervision of health care assistants performing needle sticks.

Effective Date: January 9, 2003.

Contact Person: Pamela Lovinger, Regulatory Affairs Manager, Health Professions Quality Assurance, Department of Health, P.O. Box 47860, Olympia, WA 98504-7860, (360) 236-4984.

**WSR 03-04-048**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**GENERAL ADMINISTRATION**  
(State Capitol Committee)  
[Memorandum—January 28, 2003]

Please record the following 2003 quarterly State Capitol Committee (SCC) meeting dates, time and location in the Washington State Register:

Thursday, March 13	10:00 a.m. to 12:00 p.m.
Thursday, June 5	10:00 a.m. to 12:00 p.m.
Thursday, October 23	10:00 a.m. to 12:00 p.m.
Thursday, December 11	10:00 a.m. to 12:00 p.m.

The SCC meetings will be held in Room 207 on the Second Floor of the General Administration Building, 210 11th Avenue S.W., Olympia, WA.

If you have any questions, please contact Kim Buccarelli at 902-0955.

## WSR 03-04-050

## AGENDA

## HEALTH CARE AUTHORITY

[Filed January 29, 2003, 11:38 a.m.]

**Washington State Health Care Authority**  
**Melodie Bankers, Rule Coordinator, (360) 923-2728**

**January 31, 2003, Semi-Annual Rule-Making Agenda**

Approximate Preproposal	Purpose of the Rule Why is this Significant?	Rule(s) Mandate	Other Agencies who may have Interest in the Subject of Rule(s)
1. Date 2. Subject Area 3. Contact/Telephone Number			
1. CR-101 filed May 19, 2002 2. WAC 182-25-010 3. Rosanne Reynolds (360) 923-2948	Revise rules regarding eligibility based on income and other factors, to ensure that enrollment and subsidy levels are based on an accurate appraisal of the person's circumstances.	No mandate.	DHHS Medical Assistance Administration
1. CR-101 filed January 2, 2003 2. WAC 182-25-030 and 182-25-090 (and potential new section) 3. Rosanne Reynolds (360) 923-2948	Revise rules regarding limiting or closing enrollment when the administrator determines there is a danger of overexpenditure of appropriated funds.	RCW 70.47.060(4) and 70.47.080 require the administrator to close enrollment if the administrator finds that a danger of overexpenditure of appropriations exists.	DHHS Medical Assistance Administration
1. June 2003 2. PEBB and BH programs 3. Melodie Bankers (360) 923-2728	HCA plans to review Title 182 WAC and to amend or adopt rules as necessary or appropriate.	No mandate.	

**NOTE:** Depending on what the 2003 legislature decides regarding health care, the following programs may need to file emergency WACs: Community Health Services, Public Employee Benefits Board, and Basic Health.

If you have any questions, Melodie Bankers can be reached at (360) 923-2728.

MISC.

**WSR 03-04-051**

**INTERPRETIVE OR POLICY STATEMENT  
UTILITIES AND TRANSPORTATION  
COMMISSION**

[Filed January 29, 2003, 12:45 p.m.]

**NOTICE OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Docket No. UT-021696.

Subject: Application of the commission's customer privacy rules in situations where a nonemployee agent or contractor of a telecommunications company performs the actions of the telecommunications company.

Effective Date: January 23, 2003.

Document Description: The Washington Utilities and Transportation Commission clarifies that when a company is permitted to "use" customer information under chapter 480-120 WAC, it may do so either with its own employees or with nonemployee agents or contractors who are acting in the same capacity as its own employees, who are using the information in the same manner as a company employee might,

and who are subject to confidentiality obligations that are at-least-as-stringent-as those governing a company employee.

To receive a copy of the interpretive statement, contact the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, phone (360) 664-1160, fax (360) 586-1150, e-mail records@wutc.wa.gov, or go to the commission's website <http://wutc.wa.gov> (click on Search, click on Docket Number, enter docket number "021696," click on "Qwest Corporation," click on "Orders," and click on "1/23/2003").

Carole J. Washburn  
Secretary

**WSR 03-04-052**  
**INTERPRETIVE OR POLICY STATEMENT**  
**UTILITIES AND TRANSPORTATION**  
**COMMISSION**

[Filed January 29, 2003, 12:45 p.m.]

**NOTICE OF INTERPRETIVE OR POLICY STATEMENT**

Document Title: Docket No. UT-021658.

Subject: Resolution of an ambiguity in the application of a commission rule requiring telecommunications companies to pay interest on customer deposits, and to interpret the proper interest rate to be paid on customer deposits held by telecommunications companies during calendar year 2003.

Effective Date: December 31, 2002.

Document Description: The requirement of WAC 480-120-056 that telecommunications companies pay interest on customer deposits that they hold based on the average rate for one-year treasury bills issued by the United States government during the previous twelve months is ambiguous because the federal government no longer issues one-year treasury bills. The commission finds that the twenty-six week treasury bill is the current federal debt instrument that is closest to the instrument cited in the current rule, and that it reflects interest rates in the current market. Using the twenty-six week rate as the substitute for the one-year rate, the commission concludes that the proper interest rate for calendar year 2003 is 1.77%.

To receive a copy of the interpretive statement, contact the Commission Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, Olympia, WA 98504-7250, phone (360) 664-1160, fax (360) 586-1150, e-mail records@wutc.wa.gov, or go to the commission's website <http://wutc.wa.gov> (click on Search, click on Docket Number, enter docket number "021658," click on "No Company Name," click on "Orders," and click on "12/31/2002").

Carole J. Washburn  
Secretary

**WSR 03-04-057**  
**NOTICE OF PUBLIC MEETINGS**  
**COMMISSION ON ASIAN**  
**PACIFIC AMERICAN AFFAIRS**

[Memorandum—January 21, 2003]

**2003 Public Meeting Schedule for Commission**

January 11  
April 26  
June 7  
September 27  
November 15

**WSR 03-04-059**  
**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**  
[Memorandum—January 16, 2003]

Change in location of the regular February and April board meetings for Skagit Valley college (SVC), Community College District No. 4, and a change in location and time of the regular March board meeting.

At the January 13, 2003, board meeting, the SVC board of trustees voted to change the location of the February 10, 5:00 p.m. meeting at the Whidbey Island campus to **February 10, 5:00 p.m., 2405 East College Way, Mount Vernon in the Board Room**. The board of trustees also voted to change the location and time of the March 10, 5:00 p.m. board meeting at the Mount Vernon campus to **March 10, 4:00 p.m., 1900 S.E. Pioneer Way, Oak Harbor in Hayes Hall 137**.

At the January 13, 2003, board meeting, the SVC board of trustees also voted to change the location of the April 14, 5:00 p.m. meeting at the Whidbey Island campus to **April 14, 5:00 p.m., 2405 East College Way, Mount Vernon in the Board Room**.

**WSR 03-04-060**  
**NOTICE OF PUBLIC MEETINGS**  
**SKAGIT VALLEY COLLEGE**  
[Memorandum—January 30, 2003]

**NOTICE OF SPECIAL MEETING**

**BOARD OF TRUSTEES**  
**COMMUNITY COLLEGE DISTRICT NO. 4**  
**SKAGIT VALLEY COLLEGE**

2405 East College Way  
Mount Vernon, WA 98273  
Monday, January 27, 2003  
3:00 p.m.

Mount Vernon Campus - Board Room

Chairperson, Elizabeth Hancock, has called a special meeting of the board of trustees for **Monday, January 27, 3:00 p.m.** This meeting is being held as an executive session to evaluate the qualifications of applicants for public employment.

**WSR 03-04-061****AGENDA****FOREST PRACTICES BOARD**

[Filed January 30, 2003, 10:59 a.m.]

**Rule Development Agenda  
July - December 2003**

The board's mandate is to adopt rules to protect the state's public resources while maintaining a viable forest products industry. The following rule proposals are under development or are anticipated during this time period.

**1. Procedural and Ethics Rules.** At the May 8, 2001, meeting, the board decided to continue with permanent rule making on its rule for procedure and ethics, which will update the board's administrative procedures, and provide new rules on public record requests and executive ethics. Proposed permanent rule language is still being drafted. The board will consider the proposed rules at the May 2003 meeting.

**2. Editorial and Minor Rule Changes.** The current permanent rules are being reviewed for editorial and minor clarification changes. This may result in a rule proposal.

**3. Marbled Murrelet Rules.** The board will consider an emergency rule proposal at the May 2003 meeting. The emergency rules would reflect an updated survey protocol. A permanent rule proposal will also be considered.

**4. Cultural Resources.** The TFW Cultural Resources Committee is reviewing the forest practices rule governing cultural resource protection, and developing a cultural resource management plan and watershed analysis module for cultural resources. The board will consider rule making at the May 2003 meeting.

**5. Other Legislative Mandated Changes.** Legislation that is passed during the 2003 session will be reviewed to determine if new rule making will need to occur. Legislation passed during the 2003 session that will require new rule making includes SSB 6241 pertaining to Christmas trees.

**6. Road Maintenance and Abandonment Plans.** Pending 2003 legislation, the board may consider emergency rule making at the May 2003 meeting.

**7. Salmonid Adaptive Management.** The Forests and Fish Policy Committee will be reviewing results from scientific projects for rule modifications.

**Contact Person:** Patricia Anderson, FPB Rules Coordinator, Department of Natural Resources, Forest Practices Division, P.O. Box 47012, Olympia, WA 98504-7012, phone (360) 902-1413, fax (360) 902-1428, e-mail patricia.anderson@wadnr.gov.

**WSR 03-04-063****POLICY STATEMENT****WASHINGTON STATE LOTTERY**

[Filed January 30, 2003, 4:46 p.m.]

The Washington Lottery has recently adopted or revised the following policies:

**POL 110.013 - Cellular Telephones (Revision)**

Added that employees are allowed de minimis personal use of cell phones; added a definition of de minimis. Employees no longer reimburse the lottery for inadvertent use of state cellular phone lines; instead, the employee must demonstrate he/she can avoid future improper use. In addition, the employee may lose the right to have a cell phone, or may be subject to disciplinary action. An information services designee now notifies lottery supervisors when they can destroy past call phone billing records.

Signed December 17, 2002.

**POL 110.028 - Releasing Retailer Information on On-Line Winning Tickets (Revision)**

Added information about releasing Mega Millions information to the public. Also made other minor housekeeping changes, such as indicating the web site is now updated by a "web site host."

Signed October 3, 2002.

**POL 110.556 - Mega Millions Drawings (Revision)**

The two forms used by the lottery drawing official and the external auditor were combined into one form.

Signed December 28, 2002.

**POL 220.007 - Meals at Meetings and Formal Training Sessions (Revision)**

Added that the lottery may pay for the meals of outside participants if the participants' attendance is a necessary part of the meeting or formal training session. Added a list of how payments can be made (lottery pays, lottery pays and vendor is billed, or employee pays and receives reimbursement via travel voucher).

Signed December 10, 2002.

**POL 220.022 - Reduction-in-Force (RIF) (Revision)**

To the definition of "layoff unit," added language defining the layoff unit for district sales representatives (DSRs) as regional first and statewide second (the definition for all other agency classifications did not change). Added that, prior to determining a RIF is necessary, the Union-Management Committee will discuss the impact on DSRs. RIF is used only as a last resort.

Signed January 17, 2003.

**POL 130.006 - Harley-Davidson® Provisional Licenses (New)**

This is a new policy that allows the lottery to issue a six-month provisional license to specific Harley-Davidson® dealers, to sell only Game 426 - \$3 Harley-Davidson®. A short form application and contract were developed for these dealers (this is possible due to the limited financial exposure and other risks from the short duration of selling only Game 426). The director of sales identifies the dealers offered the opportunity to participate.

Signed October 17, 2002.

**POL 320.078 - Harley-Davidson® Retailer Promotion (New)**

This new policy establishes guidelines for awarding prizes to retailers for activating packs of Game 426 - \$3 Har-

MISC.

ley-Davidson®. The promotion runs November 4, 2002 - February 23, 2003. Entries are based on activated (and not returned or returned to received status) packs. One retailer in each region will receive a prize of \$2,500.

Signed October 22, 2002.

**POL 320.079 - Mega Millions Motor Tour Promotion  
(New)**

This new policy establishes guidelines for gathering entries and selecting *one winner* of a trip for two to Caesar's Palace in Las Vegas *for each* of the Mega Millions Motor Tour promotional events. For each \$5 lottery product purchased at an event, the purchaser receives one entry. The events were held October 15 (Vancouver), October 19 (Moses Lake), and October 24 (Spokane). The director of marketing may approve conducting this promotion at other Mega Millions or lottery promotional events.

Signed October 14, 2002.

**POL 420.020 - Permanently Assigned Vehicles (Revision)**

When managers or the director/deputy director deny a permanently assigned vehicle, the denial no longer has to be in writing. The final approval memo is prepared by the administrative services manager, rather than the director. The director or deputy director can determine that circumstances justify not following supervisory channels for approval (such as when the decision is made during the hiring process).

Signed October 8, 2002.

To receive a copy of these policies, contact Becky Zopolis, Washington Lottery, P.O. Box 43000, Olympia, WA 98504-3000, phone (360) 664-4816, fax (360) 664-4817.

January 29, 2003

Becky L. Zopolis

**WSR 03-04-064**

**AGENDA**

**EMPLOYMENT SECURITY DEPARTMENT**

[Filed January 30, 2003, 4:51 p.m.]

**Semi-Annual Rule-Making Agenda  
(January 31, 2003 - July 31, 2003)**

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Title 192 WAC	To be determined (Subject: Tribal employers; changes in payment methods for nonprofits).	Juanita Myers (360) 902-9665	CR-101 - 2/02 CR-102 - 4/03 Hearing - To be determined	Adopt rules clarifying the action that will be taken regarding tribal entities in default of their unemployment insurance taxes. Clarify tax rate for delinquent non-profit entities who change payment method from reimbursement to contribution-paying (taxable).
Chapter 192-240 WAC	Extended and additional benefits.	Juanita Myers (360) 902-9665	CR-101 - 2/02 CR-102 - 12/02 Hearing - 2/03 CR-103 - 2/03	Adopt rules clarifying the availability and job search requirements of claimants receiving regular shareable and extended benefits.
Chapter 192-210 WAC	Special category occupations ( <i>referral union members</i> ).	Juanita Myers (360) 902-9665	CR-101 - 2/02 CR-102 - 6/03 Hearing - To be determined	Adopt rules to clarify job search and availability requirements for individual members of full referral unions. Clarify requirements of unions participating in the referral union program.
Chapter 192-170 WAC Chapter 192-180 WAC	Availability to accept work; job search requirements.	Juanita Myers (360) 902-9665	CR-101 - 8/02 CR-102 - 6/03 Hearing - To be determined	Adopt rules to clarify job search and availability requirements for individuals who leave work to protect themselves or a member of their immediate family from domestic violence or stalking.

WAC CHAPTER	CHAPTER TITLE	AGENCY CONTACT	TIMING	SCOPE OF RULE CHANGES
Chapter 192-110 WAC	Applying for unemployment benefits.	Juanita Myers (360) 902-9665	CR-105 - 2/03	Amend WAC 192-270-005 to reflect current procedures for applying for unemployment benefits.
Chapter 192-270 WAC	Training benefits for dislocated workers.	Juanita Myers (360) 902-9665	CR-101 - 3/03	Amend WAC 192-270-035 to clarify application and enrollment deadlines. Amend WAC 192-270-050 to clarify the requirement that having a current benefit year is a prerequisite for having a training plan approved.
Title 192 WAC	Various.	Juanita Myers (360) 902-9665	CR-105 - 4/03	Expedited adoption of various housekeeping measures, correcting typographical errors or editing for clarity.

Larry Oline  
Rules Coordinator

**WSR 03-04-068**  
**AGENDA**  
**DEPARTMENT OF AGRICULTURE**  
[Filed January 31, 2003, 8:02 a.m.]

Following is the Department of Agriculture's semi-annual rules development agenda for the period January 1, 2003, through June 30, 2003, which is being sent in compliance with RCW 34.05.314.  
If you have any questions, please call George Huffman at (360) 902-1802 or e-mail [ghuffman@agr.wa.gov](mailto:ghuffman@agr.wa.gov).

**Washington State Department of Agriculture**  
**Semi-Annual Rules Agenda**  
**January 1, 2003 - June 30, 2003**  
**P.O. Box 42560, Olympia, WA 98504-2560**

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
<b>Pesticide Management Division</b>						
WAC 16-228-1231	State restricted use pesticides for distribution by licensed pesticide dealers and for use by certified applicators only.	Ted Maxwell Program Manager Pesticide Management Division phone (360) 902-2026	11-6-02	1-2-03	2-11-03	WSDA proposes to amend WAC 16-228-1231(2) to add pesticide products labeled only for "home and garden aquatic use for control of mosquito larvae" to the list of products that are exempt from "state restricted use" status.
WAC 16-228-1460	Experimental use permits.	Ted Maxwell Program Manager Pesticide Management Division phone (360) 902-2026	9-4-02	3-03	9-03	WAC 16-228-1460 will be amended to: <ul style="list-style-type: none"> <li>• Clarify the requirements and restrictions that apply to individual experimental use permits.</li> </ul>

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WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
						<ul style="list-style-type: none"> <li>• Expand the definition of "collective experimental use permits" to include "organizations, pesticide registrants, or persons licensed by the department to conduct demonstration and research activities" on land they own or control.</li> <li>• Define the term "control."</li> <li>• Require that any unused experimental use pesticide that does not have a registered use in Washington state must be returned to the manufacturer or disposed of properly.</li> </ul>
WAC 16-229-010	Definitions.	Cliff Weed Program Manager Pesticide Compliance phone (360) 902-2036	8-22-01	1-03	3-03	Amend the current definition of pesticide temporary field storage containers to allow containers of more than 2,500 gallons.
WAC 16-231-107 WAC 16-231-149	Application of pesticides in Franklin County—Restricted use pesticides. Restricted use herbicides—Franklin County—Area 2A.	Cliff Weed Program Manager Pesticide Compliance phone (360) 902-2036	2-5-03 (CR-105)	Expedited Adoption	4-8-03	Amendments will correct errors in the current rule: Areas 2B, 4 and 6 should be 2A, 4A and 6 in WAC 16-231-107. In WAC 16-231-149, Area 2 should be 2A.
Thiamethoxam	Special restrictions may be placed upon pesticides containing the active ingredient thiamethoxam (Actara).	Cliff Weed Program Manager Pesticide Compliance phone (360) 902-2036	11-6-02	1-2-03	2-11-03	The department has received several reports of bee kills that appear to be related to the use of Actara (active ingredient -thiamethoxam) in pome fruits. The label restrictions for Actara do not appear to be adequate to prevent the occurrence of additional bee kills. Honeybees are essential for the pollination of pome fruits and need enhanced protection.
Thiamethoxam (continued)	Special restrictions may be placed upon pesticides containing the active ingredient thiamethoxam (Actara).	Cliff Weed Program Manager Pesticide Compliance phone (360) 902-2036	11-6-02	1-2-03	2-11-03	WSDA is proposing the adoption of rules that restrict the use of thiamethoxam in pome fruits if the Actara label is not revised to provide adequate protection of pollinators. The department intends to repeal the rule when it and the registrant have determined that existing stocks of Actara have been exhausted.

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
Thiamethoxam (continued)	Special restrictions may be placed upon pesticides containing the active ingredient thiamethoxam (Actara).	Cliff Weed Program Manager Pesticide Compliance phone (360) 902-2036	11-6-02	1-2-03	2-11-03	WSDA is not currently considering any restrictions which would prohibit the use of Actara, rather restrictions are being considered which will allow the use of Actara while at the same time provide adequate protection for pollinators.
<b>Plant Protection Division</b>						
Chapter 16-321 WAC	Grass sod—Certification standards.	Tom Wessels Program Manager Plant Services phone (360) 902-1984	1-22-03 (CR-105)	Expedited Repeal	3-25-03	Repeal a rule chapter that is neither used nor wanted by industry. Repeal of this chapter will not impair the health, welfare or safety of Washington's citizens.
Chapter 16-401 WAC, excluding WAC 16-401-050 Annual assessment—Fruit tree material.	Nursery inspection fees.	Tom Wessels Program Manager Plant Services phone (360) 902-1984	11-20-02	3-19-03	5-29-03	Propose increasing nursery inspection fees by 2003 fiscal growth rate factor (3.29%) effective June 30, 2003, and by 2004 factor (3.20%) effective July 1, 2003. These fees fund the nursery inspection program and allow plant services staff to provide requested services to the industry. These services include phytosanitary certification for shipping nursery stock. An increase in applicable rates and charges and in miscellaneous charges equal or less than the fiscal growth factor is necessary to offset increased operational expenses.
WAC 16-401-060	Annual assessment—Grapevines.	Tom Wessels Program Manager Plant Services phone (360) 902-1984	7-3-02	1-22-03	3-03	New section. Rule making resulting from amendments to chapter 15.13 RCW authorizing the department to collect an assessment on grapevine nursery stock sold in the state and establish the assessment rate in rule.
WAC 16-470-900 through 16-470-921	Plant pest detection, testing and inspection fees and documentation.	Tom Wessels Program Manager Plant Services phone (360) 902-1984	11-20-02	3-19-03	5-29-03	Propose increasing plant pest detection, testing and inspection fees and documentation by 2003 fiscal growth rate factor (3.29%) effective June 30, 2003, and by 2004 factor (3.20%) effective July 1, 2003. These fees fund inspection and plant pathology testing of agriculture products for phytosanitary certification. The plant protection division provides these services on a fee for services basis. An increase in applicable rates and charges and in miscellaneous

MISC.

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
						charges equal to or less than the fiscal growth factor is necessary to offset increased program operating expenses.
WAC 16-465-001 and WAC 16-465-060	Promulgation. Effective date.	Tom Wessels Program Manager Plant Services phone (360) 902-1984	12-19-02 (CR-105)	Expedited Repeal	2-19-03	Repeal rule sections that are anachronistic and unnecessary.
WAC 16-328-010 WAC 16-328-011	Strawberry plant certification fees.  Strawberry plant certification fees.	Tom Wessels Program Manager Plant Services phone (360) 902-1984	1-22-03	3-19-03	5-29-03	Department proposes to repeal WAC 16-328-010 and amend WAC 16-328-011 to increase fees for fiscal years 2003 and 2004 by the fiscal growth rate factors for those years. The fiscal growth rate factor for 2003 is 3.29% and for 2004 it is 3.2%. The fee increases are necessary to cover the increased cost of providing plant services program services to the industry.
WAC 16-333-040 WAC 16-333-041	Caneberry certification fees effective June 30, 2001.  Caneberry certification fees effective July 1, 2001.	Tom Wessels Program Manager Plant Services phone (360) 902-1984	1-22-03	3-19-03	5-29-03	Department proposes to repeal WAC 16-333-040 and amend WAC 16-333-041 to increase fees for fiscal years 2003 and 2004 by the fiscal growth rate factors for those years. The fiscal growth rate factor for 2003 is 3.29% and for 2004 it is 3.2%. The fee increases are necessary to cover the increased cost of providing plant services program services to the industry.
Chapter 16-657 WAC	Retail pricing of motor and heating fuel.	Jerry Buendel Program Manager Weights and Measures phone (360) 902-1856	1-22-03	4-23-03	6-03	Executive Order 97-02 review of chapter 16-657 WAC with possible revisions based upon industry recommendations.
Chapter 16-659 WAC	Weights and measures—Liquefied petroleum gas.	Jerry Buendel Program Manager Weights and Measures phone (360) 902-1856	1-22-03	4-23-03	6-03	Executive Order 97-02 review of chapter 16-659 WAC with possible revisions based upon industry recommendations.
Chapter 16-662 WAC	Weights and measures—National handbooks.	Jerry Buendel Program Manager Weights and Measures phone (360) 902-1856	1-22-03 (CR-105)	Expedited Adoption	3-25-03	Update references to reflect current national handbooks and amend WAC 16-662-110 (1)(a) to comply with national standards.
<b>Food Safety, Animal Health and Consumer Services Division</b>						
Chapter 16-100 WAC	Refrigerated locker establishments—Recording thermometers.	Claudia Coles Program Manager Food Safety, Animal Health and Consumer Services phone (360) 902-1905	2-5-03 (CR-105)	Expedited Repeal	4-22-03	Repeal a rule chapter that is no longer needed.
Chapter 16-600 WAC	Honey.	Claudia Coles Program Manager Food Safety, Animal Health and Consumer Services phone (360) 902-1905	2-5-03 (CR-105)	Expedited Repeal	4-22-03	Repeal a rule chapter that is no longer needed.

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
WAC 16-720-001	Promulgation.	Claudia Coles Program Manager Food Safety, Animal Health and Consumer Services phone (360) 902-1905	2-5-03 (CR-105)	Expedited Repeal	4-22-03	Repeal a rule section that is unnecessary.
<b>Agency Operations Division</b>						
Chapter 16-06 WAC	Public records.	Dannie McQueen Program Manager Administrative Regulations Program Agency Operations Division phone (360) 902-1809	1-22-03	7-23-03	9-17-03	As part of the department's ongoing rule review under Executive Order 97-02, the department plans to amend chapter 16-06 WAC, procedural rules for the disclosure of public records. Department proposed amendments will update the chapter to reflect the department's current organizational structure as required by RCW 42.17.-250 (1)(a). Updating chapter 16-06 WAC will help individuals to identify the department program that is the official holder of public records being sought.
<b>Commodity Inspection Division</b>						
Chapter 16-449 WAC	Washington controlled atmosphere storage requirements for winter pears.	Jim Quigley Program Manager Commodity Inspection Division phone (360) 902-1883	8-7-02	3-19-03	5-1-03	Combine the three chapters into one chapter containing the controlled atmosphere requirements for fruits and vegetables.
Chapter 16-459 WAC	Controlled atmosphere storage.					
Chapter 16-690 WAC	Fruit storage.					
WAC 16-319-041	Application for certification of forest reproductive material.	Graydon Robinson Program Manager WSDA Seed Program 21 North 1st Avenue, Suite 203 Yakima, WA 98902 phone (509) 225-2630 fax (509) 454-4395  Keith Pfeifer, Manager Washington State Crop Improvement Association 414 South 46th Avenue Yakima, WA 98908 phone (509) 966-2234 fax (509) 966-2494	11-4-02	12-31-02	2-19-03	Proposed fee increases requested by industry to increase seed certification fees for forest reproductive material. The increases are within the fiscal growth rate factor and are necessary to cover the current cost of operating the portion of the seed certification program delegated by the director to the Washington Crop Improvement Association.
WAC 16-303-340	Seed certification fees for buckwheat, chick-pea, field pea, lentil, millet, soybean, sorghum and small grains.	Graydon Robinson Program Manager WSDA Seed Program 21 North 1st Avenue Suite 203 Yakima, WA 98902 phone (509) 225-2630 fax (509) 454-4395  Keith Pfeifer Manager Washington State Crop Improvement Association 414 South 46th Avenue Yakima, WA 98908 phone (509) 966-2234 fax (509) 966-2494	11-4-02	12-31-02	2-19-03	Proposed fee increases requested by industry. The increases are within the fiscal growth rate factor and are necessary to cover the current cost of operating the portion of the seed certification program delegated by the director to the Washington Crop Improvement Association.

MISC.

WAC Number	Rule Title	Agency Contact	CR-101	Tentative Timeline CR-102	CR-103	Subject of Rule Making
WAC 16-303-200	Seed program testing fees.	Graydon Robinson Program Manager WSDA Seed Program 21 North 1st Avenue Suite 203 Yakima, WA 98902 phone (509) 225-2630 fax (509) 454-4395	11-4-02	1-22-03	3-20-03	Proposed fee increases within the fiscal growth rate factor for fiscal year 2003 (3.29%). The increases are necessary to assure that the fees charged for seed program services are sufficient to recover operating costs.
WAC 16-303-210	Fees for special seed tests.					
WAC 16-303-230	Official seed sampling or similar service.					
WAC 16-303-250	Miscellaneous charges for seed services.					
WAC 16-303-300	Phytosanitary certification of seed—Fees.					
WAC 16-303-310	Organization for economic cooperation and development scheme for varietal certification (OECD) fees.					
WAC 16-303-317	Annual and rough bluegrass quarantine fees.					
WAC 16-303-320	Certification fees for seed certified by the department except grasses.					
WAC 16-303-330	Certification fees for grass seed.					

George Huffman  
Rules Coordinator

**WSR 03-04-069**  
**AGENDA**  
**PUBLIC DISCLOSURE COMMISSION**

[Filed January 31, 2003, 4:46 p.m.]

**Agenda for Rules Under Development, January - June, 2003**

Agency Contact: Doug Ellis, Director of Public Outreach, P.O. Box 40908, Olympia, WA 98504-0908, phone (360) 664-2735, toll free 1-877-601-2828, fax (360) 753-1112, e-mail dellis@pdc.wa.gov.

At present, the Public Disclosure Commission has twenty-five rules under development:

1. Topic: Amending the contribution withholding authorization forms for employee payroll deduction.

Status: On July 23, 2002, the commission filed the pre-proposal statement with the code reviser giving notice that it is considering changes to the withholding authorization forms to conform with chapter 156, Laws of 2002. A public hearing and possible adoption of this amended rule may occur on March 25, 2003. If adopted, the new rule will likely go into effect on April 26, 2003.

Statutory Authority: RCW 42.17.370(1) and 42.17.680 (3).

Statute Being Implemented: RCW 42.17.680.

WAC Cite: WAC 390-17-100 Contribution withholding authorizations.

2. Topic: Notifying employees regarding voluntary payroll deductions.

Status: On July 23, 2002, the commission filed the pre-proposal statement with the code reviser giving notice that it is considering a new rule to clarify who sends notifications required under RCW 42.17.680 to employees from whom wages or salary are withheld for contributions to political committees or candidates. A public hearing on this issue may occur on March 25, 2003. If new thresholds are established by rule, they will likely go into effect on April 26, 2003.

Statutory Authority: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.680.

WAC Cite: WAC 390-17-110 Notifying employees regarding voluntary payroll deductions.

3. Topic: Clarifying the requirements for sponsor identification on broadcast political advertising.

Status: The commission intends to file a preproposal statement with the code reviser giving notice that it is considering the elimination of the requirement to have broadcast advertising conform to FCC requirements. A public hearing on this issue may occur on May 26, 2003. If the amendments are adopted, the rule will likely go into effect on June 27, 2003.

Statutory Authority: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.510.

WAC Cite: WAC 390-18-010 Political advertising—Identification of sponsor.

4. Topic: Revising language to permit the redemption of pledges made with respect to the primary election for up to thirty days after the primary election.

Status: The commission intends to file a preproposal statement with the code reviser giving notice that it is considering changes to the time frame allowed to redeem primary pledges. A public hearing on this issue may occur on May 26, 2003. If new language is established by rule, it will likely go into effect on June 27, 2003.

Statutory Authority: RCW 42.17.370(1).

Statute Being Implemented: RCW 42.17.640.

WAC Cite: WAC 390-16-245 Pledges.

5. Topic: Revising language in chapter 390-37 WAC to conform to Administrative Procedure Act.

Status: The commission intends to file a preproposal statement with the code reviser giving notice that it is considering adjustments to chapter 390-37 WAC to bring all enforcement rules under the section into conformity with the APA. A public hearing on this issue may occur on June 23, 2003. If new language is established by rule, it will likely go into effect on or before November 30, 2003.

Statutory Authority: RCW 42.17.370(1).

Statute Being Implemented: Chapter 42.17 RCW.

WAC Cite: WAC 390-37-000 Enforcement cases—Jurisdiction, 390-37-010 Enforcement procedures—Policy, 390-37-020 Enforcement procedures—Initiation of complaint, 390-37-030 Enforcement procedures—Status of citizen complainant and others, 390-37-040 Enforcement procedures—Procedures for filing citizen complaints, 390-37-050 Enforcement procedures—Respondent's notice of complaint, 390-37-060 Enforcement procedures—Investigation of complaints—Initiation of hearing, 390-37-063 Enforcement procedures—Demand for information—Subpoenas, 390-37-070 Enforcement procedures—Complaints dismissible by executive director, 390-37-090 Informal settlement—Cases resolvable by stipulation, 390-37-100 Enforcement procedures—Conduct of hearings, 390-37-105 Prehearing conference—Rule, 390-37-120 Enforcement hearings—Subpoenas—Discovery—Hearings, 390-37-130 Enforcement hearings—Depositions and interrogatories—Right to take, 390-37-132 Enforcement hearings—Depositions and interrogatories—Notice, 390-37-134 Depositions and interrogatories in enforcement hearings—Protection of parties and deponents, 390-37-136 Production of documents and use at hearing, 390-37-140 Brief enforcement hearings—Authority, 390-37-142 Brief enforcement hearing—Procedure, 390-37-144 Brief enforcement hearing—Administrative review procedures, and 390-37-150 Reconsideration and review of decisions.

A complete listing of rule making activity from 1999 to present can be found on the Public Disclosure Commission website at [www.pdc.wa.gov](http://www.pdc.wa.gov) under rule-making activity.

January 31, 2003

Douglas J. Ellis

Director of Public Outreach

### WSR 03-04-071

#### NOTICE OF PUBLIC MEETINGS ECONOMIC DEVELOPMENT FINANCE AUTHORITY

[Memorandum—January 31, 2003]

The Washington Economic Development Finance Authority (WEDFA) is an independent agency (#106) within the executive branch of the state government. The authority has four regular board meetings each year, one per quarter. The authority's meetings are open to the public, and access for persons with disabilities is provided at all meetings of the authority. We would like to have the schedule for the next board meeting published in the next issue of the State Register.

The meeting will be held at 10:00 a.m., Wednesday, March 5, 2003, at the Red Lion Hotel at the Quay, 100 Columbia Street, Vancouver, WA.

Please call Jonathan A. Hayes at (206) 587-5634 if you have any questions.

### WSR 03-04-083

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed February 3, 2003, 1:38 p.m.]

##### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 230.

Subject: Spousal support.

Effective Date: December 24, 2001.

Document Description: This notice explains to DCS staff about DCS policy and procedures regarding handling spousal support issues.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail [sschille@dshs.wa.gov](mailto:sschille@dshs.wa.gov).

January 24, 2003

Stephanie E. Schiller

### WSR 03-04-084

#### INTERPRETIVE OR POLICY STATEMENT DEPARTMENT OF SOCIAL AND HEALTH SERVICES

[Filed February 3, 2003, 1:39 p.m.]

##### DESCRIPTION OF INTERPRETIVE OR POLICY STATEMENT

Document Title: CN 232.

Subject: Child support issues when the NCP is incarcerated.

Effective Date: January 16, 2003.

**Document Description:** This notice explains to DCS staff how to handle child support issues when the noncustodial parent on a case is incarcerated.

To receive a copy of the interpretive or policy statement, contact Stephanie Schiller, Division of Child Support, P.O. Box 9162, Olympia, WA 98507-9162, phone (360) 664-5230, TDD (360) 753-9122, fax (360) 586-3274, e-mail sschille@dshs.wa.gov.

January 24, 2003  
Stephanie E. Schiller

**WSR 03-04-093**  
**NOTICE OF PUBLIC MEETINGS**  
**DEPARTMENT OF**  
**NATURAL RESOURCES**  
(Natural Heritage Advisory Council)  
[Memorandum—February 4, 2003]

**NOTICE OF MEETINGS  
OF THE**  
**NATURAL HERITAGE ADVISORY COUNCIL**

The Natural Heritage Advisory Council will meet on the following dates:

March 19, 2003	9:30 a.m. to 4:30 p.m. Natural Resources Building 1111 Washington Street S.E. Olympia, WA
June 12-13, 2003	Location to be announced
October 15, 2003	9:30 a.m. to 4:30 p.m. Natural Resources Building 1111 Washington Street S.E.

Regular council business generally includes consideration of proposals for new natural areas, additions to existing natural areas, and management activities within existing natural areas. The March meeting will also include consideration of revisions to the *State of Washington Natural Heritage Plan*.

For further information contact Department of Natural Resources, Natural Heritage Program, 1111 Washington Street S.E., Olympia, WA 98504-7014, (360) 902-1661.

**WSR 03-04-096**  
**INTERPRETIVE AND POLICY STATEMENT**  
**DEPARTMENT OF**  
**LABOR AND INDUSTRIES**  
[Filed February 4, 2003, 1:15 p.m.]

In accordance with RCW 34.05.230(12), following is a list of Policy and Interpretive Statements issued by the department for December 2002.

If you have any questions or need additional information, please call Carmen Moore at (360) 902-4206.

**Insurance Services Division**

**INTERIM POLICY 61.04 Processing Applications for Elective Coverage.**

This policy applies to state fund and self-insured workers' compensation claims. This policy does not apply to crime victims. This policy provides guidelines for staff when processing applications for elective coverage for excluded or exempted employments. The policy was updated to include the department's decision that we will accept faxed elective coverage applications, but benefits will not begin until the day after the date the fax is received. This policy was amended December 20, 2002.

Contact Linda Norris, Mailstop 4310, phone (360) 902-4999.

Carmen Moore  
Legislative and Governmental  
Affairs Office

**WSR 03-04-106**

**NOTICE OF PUBLIC MEETINGS**  
**COUNTY ROAD**  
**ADMINISTRATION BOARD**

[Memorandum—February 3, 2003]

MEETING NOTICE:	April 17, 2003 County Road Administration Board 2404 Chandler Court S.W. Suite 240 Olympia, WA 98504 1:00 p.m. to 5:00 p.m.
PUBLIC HEARING:	April 17, 2003 County Road Administration Board 2404 Chandler Court S.W. Suite 240 Olympia, WA 98504 2:00 p.m.
MEETING NOTICE:	April 18, 2003 County Road Administration Board 2404 Chandler Court S.W. Suite 240 Olympia, WA 98504 9:00 a.m. to 12:00 p.m.

Individuals requiring reasonable accommodation may request written materials in alternative formats, sign language interpreters, physical accessibility accommodations, or other reasonable accommodation, by contacting Karen Pendleton, at (360) 753-5989, hearing and speech impaired persons can call 1-800-833-6384.

If you have questions, please contact Karen Pendleton at (360) 753-5989.

**WSR 03-04-107**

**NOTICE OF PUBLIC MEETINGS  
LOTTERY COMMISSION**  
 [Memorandum—February 5, 2003]

**AMENDED 2003 MEETING SCHEDULE FOR WASHINGTON LOTTERY COMMISSION**

Following is the year 2003 amended meeting schedule for the Washington Lottery Commission:

Thursday, March 27, 2003	Olympia
Thursday, May 15, 2003	Yakima
Thursday, July 17, 2003	Everett
Thursday, September 25, 2003	Spokane
Thursday, November 13, 2003	Vancouver

**WASHINGTON STATE LOTTERY COMMISSION  
2003 MEETING SCHEDULE**

Revised February 3, 2002 [2003]

Date(s)	Lodging Wednesday Night	Meeting Facility Thursday Morning
Thursday January 16, 2003	Crown Plaza Hotel Sequoia Room Seattle Contact: Ann Litt (800) 521-2762 reserved	CANCELLED
Thursday March 27, 2003	Phoenix Inn & Suites Olympia Contact: Jude (360) 570-0555 reserved	Phoenix Inn & Suites Olympia Contact: Jude (360) 570-0555 reserved
Thursday May 15, 2003	Oxford Suites, Yakima Contact: Diane (509) 457-9000 reserved	Oxford Suites, Yakima Contact: Diane (509) 457-9000 reserved
Thursday July 17, 2003	Region 6 TBD	Region 6 TBD
Thursday September 25, 2003	DoubleTree City Center Spokane Contact: Jamie Cornell (509) 744-2310 reserved	DoubleTree City Center Spokane Contact: Jamie Cornell (509) 744-2310 reserved
Thursday November 13, 2003	Region 5 TBD	M J Murdock Trust Building Vancouver Contact: Sheila Flannigan (360) 694-8415

When it appears that individuals outside the Attorney General's Office have information or expertise that will assist in the preparation of a particular opinion, a summary of that opinion request will be published in the state register. If you are interested in commenting on a request listed in this volume of the register, you should notify the Attorney General's Office of your interest by February 26, 2003. This is not the due date by which comments must be received. However, if you do not notify the Attorney General's Office of your interest in commenting on an opinion request by this date, the opinion may be issued before your comments have been received. You may notify the Attorney General's Office of your intention to comment by calling (360) 664-3027, or by writing to the Solicitor General, Office of the Attorney General, P.O. Box 40100, Olympia, WA 98504-0100. When you notify the office of your intention to comment, you will be provided with a copy of the opinion request in which you are interested, information about the Attorney General's Opinion process, information on how to submit your comments, and a due date by which your comments must be received to ensure that they are fully considered.

The Attorney General's Office seeks public input on the following opinion request(s):

**03-01-04 Request by Martharose Laffey, Executive Director Washington State School Director's Association**

**Does RCW 42.30.140(4) permit a school board to discuss and decide operational strategies it may execute if a threatened strike by school employees occurs?**

**MISC.**

**WSR 03-04-114****ATTORNEY GENERAL'S OFFICE**

[Filed February 5, 2003, 11:17 a.m.]

**NOTICE OF REQUEST FOR ATTORNEY GENERAL'S OPINION****WASHINGTON ATTORNEY GENERAL**

The Washington Attorney General issues formal published opinions in response to requests by the heads of state agencies, state legislators, and county prosecuting attorneys.



**Table of WAC Sections Affected**

**KEY TO TABLE**

This table covers the current calendar year through this issue of the Register and should be used to locate rules amended, adopted, or repealed subsequent to the publication date of the latest WAC or Supplement.

**Symbols:**

AMD = Amendment of existing section  
 A/R = Amending and recodifying a section  
 DECOD = Decodification of an existing section  
 NEW = New section not previously codified  
 OBJECT = Notice of objection by Joint Administrative Rules Review Committee  
 PREP = Preproposal comments  
 RE-AD = Readoption of existing section  
 RECOD = Recodification of previously codified section  
 REP = Repeal of existing section  
 RESCIND = Rescind of existing section  
 REVIEW = Review of previously adopted rule  
 SUSP = Suspending an existing section

**Suffixes:**

-C = Continuance of previous proposal  
 -E = Emergency action  
 -P = Proposed action  
 -S = Supplemental notice  
 -W = Withdrawal of proposed action  
 -X = Expedited rule making  
 -XA = Expedited adoption  
 -XR = Expedited repeal  
 No suffix means permanent action

**WAC #** Shows the section number under which an agency rule is or will be codified in the Washington Administrative Code.

**WSR #** Shows the issue of the Washington State Register where the document may be found; the last three digits identify the document within the issue.

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
16- 54-155	NEW-E	03-03-085	16-303-320	AMD-P	03-03-130	118- 66-030	NEW-P	03-04-108
16-157-020	AMD	03-03-044	16-303-330	AMD-P	03-03-130	118- 66-040	NEW-P	03-04-108
16-157-030	AMD	03-03-044	16-321-001	REP-X	03-03-124	118- 66-042	NEW-P	03-04-108
16-157-100	REP	03-03-044	16-321-010	REP-X	03-03-124	118- 66-045	NEW-P	03-04-108
16-157-110	REP	03-03-044	16-321-020	REP-X	03-03-124	118- 66-050	NEW-P	03-04-108
16-157-200	REP	03-03-044	16-321-030	REP-X	03-03-124	118- 66-080	NEW-P	03-04-108
16-157-220	AMD	03-03-044	16-321-040	REP-X	03-03-124	118- 66-081	NEW-P	03-04-108
16-157-230	AMD	03-03-044	16-321-050	REP-X	03-03-124	118- 66-085	NEW-P	03-04-108
16-157-240	AMD	03-03-044	16-321-060	REP-X	03-03-124	118- 66-090	NEW-P	03-04-108
16-157-245	NEW	03-03-044	16-321-070	REP-X	03-03-124	132A	PREP	03-04-091
16-157-250	AMD	03-03-044	16-321-080	REP-X	03-03-124	132H-116	PREP	03-04-074
16-157-255	AMD	03-03-044	16-321-090	REP-X	03-03-124	132H-120	PREP	03-04-075
16-157-260	AMD	03-03-044	16-321-100	REP-X	03-03-124	132H-152-135	PREP	03-04-073
16-157-270	AMD	03-03-044	16-321-110	REP-X	03-03-124	132X- 60-065	AMD	03-03-089
16-157-280	REP	03-03-044	16-321-120	REP-X	03-03-124	139- 05-915	AMD-C	03-03-091
16-157-290	AMD	03-03-044	16-328-010	PREP	03-03-121	173- 06-120	AMD-X	03-04-081
16-160-010	AMD	03-03-045	16-328-011	PREP	03-03-121	173- 26	PREP	03-03-019
16-160-020	AMD	03-03-045	16-333-040	PREP	03-03-120	173-157-010	NEW	03-03-081
16-160-025	REP	03-03-045	16-333-041	PREP	03-03-120	173-157-020	NEW	03-03-081
16-160-035	AMD	03-03-045	16-657	PREP	03-03-122	173-157-030	NEW	03-03-081
16-160-060	AMD	03-03-045	16-659	PREP	03-03-122	173-157-040	NEW	03-03-081
16-160-070	AMD	03-03-045	16-662-100	AMD-X	03-03-123	173-157-050	NEW	03-03-081
16-200-7401	NEW	03-02-100	16-662-105	AMD-X	03-03-123	173-157-100	NEW	03-03-081
16-200-7402	NEW	03-02-100	16-662-110	AMD-X	03-03-123	173-157-110	NEW	03-03-081
16-200-7403	NEW	03-02-100	16-662-115	AMD-X	03-03-123	173-157-120	NEW	03-03-081
16-200-7404	NEW	03-02-100	16-750-005	AMD	03-04-001	173-157-130	NEW	03-03-081
16-200-7405	NEW	03-02-100	16-750-011	AMD	03-04-001	173-157-140	NEW	03-03-081
16-200-7406	NEW	03-02-100	16-750-015	AMD	03-04-001	173-157-150	NEW	03-03-081
16-200-7407	NEW	03-02-100	98- 70-010	PREP	03-04-077	173-157-160	NEW	03-03-081
16-228-1231	AMD-P	03-02-099	118- 65-010	REP-P	03-04-108	173-157-170	NEW	03-03-081
16-228-1262	NEW-P	03-02-098	118- 65-020	REP-P	03-04-108	173-157-180	NEW	03-03-081
16-228-1264	NEW-P	03-02-098	118- 65-030	REP-P	03-04-108	173-157-200	NEW	03-03-081
16-228-1266	NEW-P	03-02-098	118- 65-040	REP-P	03-04-108	173-157-210	NEW	03-03-081
16-303-200	AMD-P	03-03-130	118- 65-050	REP-P	03-04-108	173-157-220	NEW	03-03-081
16-303-210	AMD-P	03-03-130	118- 65-060	REP-P	03-04-108	173-157-230	NEW	03-03-081
16-303-230	AMD-P	03-03-130	118- 65-070	REP-P	03-04-108	173-201A	AMD-S	03-04-082
16-303-250	AMD-P	03-03-130	118- 65-081	REP-P	03-04-108	173-303-071	AMD-E	03-03-047
16-303-300	AMD-P	03-03-130	118- 65-090	REP-P	03-04-108	173-350-010	NEW	03-03-043
16-303-310	AMD-P	03-03-130	118- 66-010	NEW-P	03-04-108	173-350-020	NEW	03-03-043
16-303-317	AMD-P	03-03-130	118- 66-020	NEW-P	03-04-108	173-350-025	NEW	03-03-043

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
173-350-030	NEW	03-03-043	180- 90-119	REP	03-04-053	232- 28-61900D	REP-E	03-03-098
173-350-040	NEW	03-03-043	180- 90-120	REP	03-04-053	232- 28-61900E	NEW-E	03-04-047
173-350-100	NEW	03-03-043	180- 90-123	REP	03-04-053	232- 28-61900E	REP-E	03-04-047
173-350-200	NEW	03-03-043	180- 90-125	REP	03-04-053	246- 01-001	AMD-X	03-04-105
173-350-210	NEW	03-03-043	180- 90-130	AMD	03-04-053	246- 01-040	REP-X	03-04-105
173-350-220	NEW	03-03-043	180- 90-133	REP	03-04-053	246- 01-070	REP-X	03-04-105
173-350-230	NEW	03-03-043	180- 90-135	REP	03-04-053	246- 01-080	AMD-X	03-04-105
173-350-240	NEW	03-03-043	180- 90-137	REP	03-04-053	246- 01-090	AMD-X	03-04-105
173-350-300	NEW	03-03-043	180- 90-141	AMD	03-04-053	246- 01-100	REP-X	03-04-105
173-350-310	NEW	03-03-043	180- 90-160	AMD	03-04-053	246-290	PREP	03-04-044
173-350-320	NEW	03-03-043	180'- 78A-700	NEW	03-04-026	246-290-002	AMD-P	03-03-079
173-350-330	NEW	03-03-043	196- 30	PREP	03-03-111	246-290-010	AMD-P	03-03-079
173-350-350	NEW	03-03-043	197- 11-070	AMD-P	03-03-082	246-290-025	AMD-P	03-03-079
173-350-360	NEW	03-03-043	197- 11-250	AMD-P	03-03-082	246-290-060	AMD-P	03-03-078
173-350-400	NEW	03-03-043	197- 11-310	AMD-P	03-03-082	246-290-060	AMD-P	03-03-079
173-350-410	NEW	03-03-043	197- 11-800	AMD-P	03-03-082	246-290-100	AMD-P	03-03-079
173-350-490	NEW	03-03-043	197- 11-820	AMD-P	03-03-082	246-290-105	AMD-P	03-03-079
173-350-500	NEW	03-03-043	197- 11-835	AMD-P	03-03-082	246-290-125	AMD-P	03-03-079
173-350-600	NEW	03-03-043	197- 11-850	AMD-P	03-03-082	246-290-220	AMD-P	03-03-079
173-350-600	NEW	03-04-103	197- 11-855	AMD-P	03-03-082	246-290-300	AMD-P	03-03-079
173-350-700	NEW	03-03-043	197- 11-902	AMD-P	03-03-082	246-290-310	AMD-P	03-03-079
173-350-710	NEW	03-03-043	197- 11-904	AMD-P	03-03-082	246-290-320	AMD-P	03-03-079
173-350-715	NEW	03-03-043	197- 11-908	AMD-P	03-03-082	246-290-416	AMD-P	03-03-079
173-350-900	NEW	03-03-043	220- 33-01000Y	REP-E	03-04-033	246-290-451	AMD-P	03-03-079
173-350-990	NEW	03-03-043	220- 33-01000Z	NEW-E	03-04-033	246-290-480	AMD-P	03-03-079
180- 10-001	REP-W	03-03-060	220- 33-01000Z	REP-E	03-04-033	246-290-490	AMD-P	03-03-079
180- 10-003	REP-W	03-03-060	220- 33-01000Z	REP-E	03-04-078	246-290-495	REP-P	03-03-079
180- 10-005	REP-W	03-03-060	220- 44-050	AMD-P	03-02-105	246-290-601	AMD-P	03-03-079
180- 10-007	REP-W	03-03-060	220- 44-05000R	REP-E	03-04-058	246-290-630	AMD-P	03-03-079
180- 10-010	REP-W	03-03-060	220- 44-05000S	NEW-E	03-04-058	246-290-634	AMD-P	03-03-079
180- 10-015	REP-W	03-03-060	220- 52-04600N	REP-E	03-04-046	246-290-638	AMD-P	03-03-079
180- 10-020	REP-W	03-03-060	220- 52-04600P	NEW-E	03-04-007	246-290-654	AMD-P	03-03-079
180- 10-025	REP-W	03-03-060	220- 52-04600P	REP-E	03-04-007	246-290-660	AMD-P	03-03-079
180- 10-030	REP-W	03-03-060	220- 52-04600Q	NEW-E	03-04-046	246-290-662	AMD-P	03-03-079
180- 10-035	REP-W	03-03-060	220- 52-07300A	REP-E	03-03-002	246-290-664	AMD-P	03-03-079
180- 10-040	REP-W	03-03-060	220- 52-07300B	NEW-E	03-03-002	246-290-666	AMD-P	03-03-079
180- 10-045	REP-W	03-03-060	220- 52-07300B	REP-E	03-03-068	246-290-672	AMD-P	03-03-079
180- 38-065	AMD-W	03-03-062	220- 52-07300C	NEW-E	03-03-068	246-290-674	AMD-P	03-03-079
180- 50-315	AMD	03-04-054	232- 12-106	AMD	03-03-016	246-290-676	AMD-P	03-03-079
180- 51-063	PREP	03-04-110	232- 12-181	AMD	03-03-016	246-290-690	AMD-P	03-03-079
180- 55-032	NEW-W	03-03-061	232- 12-289	NEW-P	03-02-103	246-290-691	AMD-P	03-03-079
180- 55-034	PREP	03-04-112	232- 28-02201	REP-P	03-02-103	246-290-692	AMD-P	03-03-079
180- 55-150	PREP	03-04-111	232- 28-02202	REP-P	03-02-103	246-290-694	AMD-P	03-03-079
180- 57-050	AMD	03-04-055	232- 28-02203	REP-P	03-02-103	246-290-696	AMD-P	03-03-079
180- 57-055	AMD	03-04-055	232- 28-02204	REP-P	03-02-103	246-290-71001	NEW-P	03-03-079
180- 57-070	AMD	03-04-055	232- 28-02205	REP-P	03-02-103	246-290-71002	NEW-P	03-03-079
180- 78A-505	AMD	03-04-025	232- 28-02206	REP-P	03-02-103	246-290-71003	NEW-P	03-03-079
180- 78A-535	AMD	03-04-024	232- 28-02280	REP-P	03-02-103	246-290-71004	NEW-P	03-03-079
180- 79A-150	PREP	03-04-109	232- 28-271	AMD	03-03-016	246-290-71005	NEW-P	03-03-079
180- 79A-155	AMD	03-04-022	232- 28-282	AMD	03-03-016	246-290-71006	NEW-P	03-03-079
180- 79A-231	AMD-P	03-04-019	232- 28-331	NEW-P	03-02-103	246-290-71007	NEW-P	03-03-079
180- 82-110	AMD	03-04-023	232- 28-332	NEW-P	03-02-103	246-290-72001	AMD-P	03-03-079
180- 82-204	PREP	03-04-020	232- 28-333	NEW-P	03-02-103	246-290-72005	AMD-P	03-03-079
180- 82-204	AMD-E	03-04-027	232- 28-334	NEW-P	03-02-103	246-290-72007	AMD-P	03-03-079
180- 82A-204	PREP	03-04-020	232- 28-335	NEW-P	03-02-103	246-290-72010	AMD-P	03-03-079
180- 82A-204	AMD-E	03-04-028	232- 28-336	NEW-P	03-02-103	246-290-72012	AMD-P	03-03-079
180- 82A-206	PREP	03-04-021	232- 28-42600C	NEW-E	03-03-102	246-292	PREP	03-04-044
180- 82A-215	PREP	03-04-021	232- 28-42600C	REP-E	03-03-102	246-294	PREP	03-04-044
180- 90-105	AMD	03-04-053	232- 28-61900B	REP-E	03-04-047	246-310-290	NEW-P	03-03-097
180- 90-110	REP	03-04-053	232- 28-61900C	NEW-E	03-03-004	246-310-295	NEW-P	03-03-097
180- 90-112	AMD	03-04-053	232- 28-61900C	REP-E	03-03-004	246-310-990	AMD-P	03-03-097
180- 90-115	REP	03-04-053	232- 28-61900D	NEW-E	03-03-098	246-802-990	AMD-P	03-03-077

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
246-815-990	AMD-P	03-03-077	296- 17-762	PREP	03-03-026	296-304-05001	AMD	03-04-099
246-830-990	AMD-P	03-03-077	296- 17-76201	PREP	03-03-026	296-304-05003	AMD	03-04-099
246-836-990	AMD-P	03-03-077	296- 17-76202	PREP	03-03-026	296-304-05005	AMD	03-04-099
246-851-160	PREP	03-04-043	296- 17-76203	PREP	03-03-026	296-304-05009	AMD	03-04-099
246-851-170	PREP	03-04-043	296- 17-76204	PREP	03-03-026	296-304-05013	AMD	03-04-099
246-869-260	PREP-W	03-04-042	296- 17-76205	PREP	03-03-026	296-304-06003	AMD	03-04-099
246-887-045	NEW	03-04-045	296- 17-76206	PREP	03-03-026	296-304-07009	AMD	03-04-099
246-887-165	NEW-X	03-03-096	296- 17-76207	PREP	03-03-026	296-304-07011	AMD	03-04-099
246-935-070	AMD-P	03-04-104	296- 17-76208	PREP	03-03-026	296-304-07013	AMD	03-04-099
250- 61	PREP	03-04-079	296- 17-76209	PREP	03-03-026	296-304-08001	AMD	03-04-099
250- 69	AMD	03-04-101	296- 17-76210	PREP	03-03-026	296-304-09017	AMD	03-04-099
250- 69-010	AMD	03-04-101	296- 17-76211	PREP	03-03-026	296-304-09021	AMD	03-04-099
250- 69-020	AMD	03-04-101	296- 17-76212	PREP	03-03-026	296-304-09023	AMD	03-04-099
250- 69-030	AMD	03-04-101	296- 200A	PREP	03-04-098	296-304-10003	AMD	03-04-099
250- 69-040	AMD	03-04-101	296- 24	PREP	03-03-110	296-304-10007	AMD	03-04-099
250- 69-050	AMD	03-04-101	296- 37	PREP	03-04-097	296-305	PREP	03-04-097
250- 69-060	AMD	03-04-101	296- 400A	PREP	03-04-098	296-307-009	AMD-X	03-04-100
250- 69-070	AMD	03-04-101	296- 401B	PREP	03-04-098	296-307-018	AMD-X	03-04-100
250- 69-090	AMD	03-04-101	296- 402A	PREP	03-04-098	296-307-03930	NEW-X	03-04-100
250- 69-110	REP	03-04-101	296- 46A	PREP	03-04-098	296-307-03935	NEW-X	03-04-100
251- 04-035	NEW-E	03-03-042	296- 56	PREP	03-03-110	296-307-03940	NEW-X	03-04-100
260- 08-595	NEW	03-03-041	296- 59	PREP	03-03-110	296-307-03945	NEW-X	03-04-100
260- 13-420	PREP	03-03-067	296- 62	PREP	03-04-097	296-307-40013	AMD-X	03-04-100
260- 20-035	PREP	03-03-025	296- 62-054	REP-X	03-04-100	296-307-40015	AMD-X	03-04-100
260- 28-030	AMD-P	03-03-040	296- 62-05402	REP-X	03-04-100	296-307-40027	AMD-X	03-04-100
260- 48-630	AMD-P	03-04-089	296- 62-05404	REP-X	03-04-100	296-307-445	NEW-X	03-04-100
260- 72-040	NEW-P	03-04-090	296- 62-05406	REP-X	03-04-100	296-307-450	AMD-X	03-04-100
284- 07-010	AMD	03-03-133	296- 62-05408	REP-X	03-04-100	296-307-45001	REP-X	03-04-100
284- 22-020	AMD	03-03-052	296- 62-05410	REP-X	03-04-100	296-307-45003	REP-X	03-04-100
284- 22-050	AMD	03-03-052	296- 62-05412	REP-X	03-04-100	296-307-45005	AMD-X	03-04-100
284- 22-060	AMD	03-03-052	296- 62-070	REP-X	03-04-100	296-307-45007	REP-X	03-04-100
284- 22-080	AMD	03-03-052	296- 62-07001	REP-X	03-04-100	296-307-45009	REP-X	03-04-100
284- 24A-070	NEW-W	03-03-063	296- 62-07003	REP-X	03-04-100	296-307-45010	NEW-X	03-04-100
284- 30-390	AMD-P	03-03-132	296- 62-07005	REP-X	03-04-100	296-307-45011	REP-X	03-04-100
284- 30-3901	NEW-P	03-03-132	296- 62-080	REP-X	03-04-100	296-307-45013	REP-X	03-04-100
284- 30-3902	NEW-P	03-03-132	296- 62-11021	REP-X	03-04-100	296-307-45015	AMD-X	03-04-100
284- 30-3903	NEW-P	03-03-132	296- 62-130	REP-X	03-04-100	296-307-45017	REP-X	03-04-100
284- 30-3904	NEW-P	03-03-132	296- 79	PREP	03-03-110	296-307-45019	REP-X	03-04-100
284- 30-3905	NEW-P	03-03-132	296- 96	PREP	03-04-098	296-307-45020	NEW-X	03-04-100
284- 30-3906	NEW-P	03-03-132	296-104	PREP	03-03-129	296-307-45021	REP-X	03-04-100
284- 30-3907	NEW-P	03-03-132	296-128-500	AMD	03-03-109	296-307-45023	REP-X	03-04-100
284- 30-3908	NEW-P	03-03-132	296-128-532	NEW	03-03-109	296-307-45025	AMD-X	03-04-100
284- 30-3909	NEW-P	03-03-132	296-128-533	NEW	03-03-109	296-307-45027	REP-X	03-04-100
284- 30-3910	NEW-P	03-03-132	296-130-010	AMD	03-03-010	296-307-45029	REP-X	03-04-100
284- 30-3911	NEW-P	03-03-132	296-130-020	AMD	03-03-010	296-307-45030	NEW-X	03-04-100
284- 30-3912	NEW-P	03-03-132	296-130-030	AMD	03-03-010	296-307-45035	NEW-X	03-04-100
284- 30-3913	NEW-P	03-03-132	296-130-035	AMD	03-03-010	296-307-45045	NEW-X	03-04-100
284- 30-3914	NEW-P	03-03-132	296-130-040	AMD	03-03-010	296-307-45050	NEW-X	03-04-100
284- 30-3915	NEW-P	03-03-132	296-130-050	AMD	03-03-010	296-307-455	NEW-X	03-04-100
284- 43-220	AMD-X	03-03-134	296-130-060	AMD	03-03-010	296-307-45505	NEW-X	03-04-100
296- 150C	PREP	03-04-098	296-130-065	AMD	03-03-010	296-307-45510	NEW-X	03-04-100
296- 150F	PREP	03-04-098	296-130-070	AMD	03-03-010	296-307-45515	NEW-X	03-04-100
296- 150M	PREP	03-04-098	296-130-080	AMD	03-03-010	296-307-45520	NEW-X	03-04-100
296- 150P	PREP	03-04-098	296-130-100	NEW	03-03-010	296-307-45525	NEW-X	03-04-100
296- 150R	PREP	03-04-098	296-130-500	REP	03-03-010	296-307-45535	NEW-X	03-04-100
296- 150T	PREP	03-04-098	296-155	PREP	03-04-097	296-307-45540	NEW-X	03-04-100
296- 150V	PREP	03-04-098	296-304-01001	AMD	03-04-099	296-307-45545	NEW-X	03-04-100
296- 17-757	PREP	03-03-026	296-304-01003	AMD	03-04-099	296-307-45550	NEW-X	03-04-100
296- 17-758	PREP	03-03-026	296-304-02007	AMD	03-04-099	296-307-45555	NEW-X	03-04-100
296- 17-759	PREP	03-03-026	296-304-02009	AMD	03-04-099	296-307-45560	NEW-X	03-04-100
296- 17-760	PREP	03-03-026	296-304-03007	AMD	03-04-099	296-307-45565	NEW-X	03-04-100
296- 17-761	PREP	03-03-026	296-304-04001	AMD	03-04-099	296-307-460	NEW-X	03-04-100

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
296-307-46005	NEW-X	03-04-100	388- 14A-3100	AMD-E	03-04-088	388- 78A-0450	NEW-P	03-03-018
296-307-46025	NEW-X	03-04-100	388- 14A-3102	AMD-E	03-04-088	388- 78A-0460	NEW-P	03-03-018
296-307-46030	NEW-X	03-04-100	388- 14A-3110	AMD-E	03-04-088	388- 78A-0470	NEW-P	03-03-018
296-307-465	NEW-X	03-04-100	388- 14A-3115	AMD-E	03-04-088	388- 78A-0480	NEW-P	03-03-018
296-307-55030	AMD-X	03-04-100	388- 14A-3120	AMD-E	03-04-088	388- 78A-0490	NEW-P	03-03-018
296-307-560	NEW-X	03-04-100	388- 14A-3122	NEW-E	03-04-088	388- 78A-050	REP-P	03-03-018
296-307-56005	NEW-X	03-04-100	388- 14A-3370	AMD-E	03-04-088	388- 78A-0500	NEW-P	03-03-018
296-307-56010	NEW-X	03-04-100	388- 14A-3810	AMD-E	03-04-088	388- 78A-0510	NEW-P	03-03-018
296-307-56015	NEW-X	03-04-100	388- 32-0025	PREP	03-03-056	388- 78A-0520	NEW-P	03-03-018
296-307-56020	NEW-X	03-04-100	388- 32-0025	AMD-E	03-03-069	388- 78A-0530	NEW-P	03-03-018
296-307-56025	NEW-X	03-04-100	388- 32-0030	PREP	03-03-056	388- 78A-0540	NEW-P	03-03-018
296-307-56030	NEW-X	03-04-100	388- 32-0030	AMD-E	03-03-069	388- 78A-055	REP-P	03-03-018
296-307-56035	NEW-X	03-04-100	388- 78A	REP-P	03-03-018	388- 78A-0550	NEW-P	03-03-018
296-307-56040	NEW-X	03-04-100	388- 78A-0010	NEW-P	03-03-018	388- 78A-0560	NEW-P	03-03-018
296-307-56045	NEW-X	03-04-100	388- 78A-0020	NEW-P	03-03-018	388- 78A-0570	NEW-P	03-03-018
296-307-56050	NEW-X	03-04-100	388- 78A-0030	NEW-P	03-03-018	388- 78A-0580	NEW-P	03-03-018
296-800	PREP	03-04-097	388- 78A-0040	NEW-P	03-03-018	388- 78A-0590	NEW-P	03-03-018
296-878	PREP	03-03-110	388- 78A-0050	NEW-P	03-03-018	388- 78A-060	REP-P	03-03-018
308- 13-150	PREP	03-04-056	388- 78A-0060	NEW-P	03-03-018	388- 78A-0600	NEW-P	03-03-018
308- 15	PREP	03-04-080	388- 78A-0070	NEW-P	03-03-018	388- 78A-0605	NEW-P	03-03-018
308- 17-120	AMD	03-03-024	388- 78A-0080	NEW-P	03-03-018	388- 78A-0610	NEW-P	03-03-018
308- 17-240	AMD	03-03-024	388- 78A-0090	NEW-P	03-03-018	388- 78A-0620	NEW-P	03-03-018
308- 20-210	AMD-P	03-03-119	388- 78A-010	REP-P	03-03-018	388- 78A-0630	NEW-P	03-03-018
308- 48-800	PREP	03-04-076	388- 78A-0100	NEW-P	03-03-018	388- 78A-0635	NEW-P	03-03-018
308- 56A-250	AMD-P	03-03-095	388- 78A-0110	NEW-P	03-03-018	388- 78A-0640	NEW-P	03-03-018
308- 56A-265	AMD-P	03-03-095	388- 78A-0120	NEW-P	03-03-018	388- 78A-0650	NEW-P	03-03-018
308- 56A-270	AMD-P	03-03-095	388- 78A-0130	NEW-P	03-03-018	388- 78A-0660	NEW-P	03-03-018
308- 56A-275	AMD-P	03-03-095	388- 78A-0140	NEW-P	03-03-018	388- 78A-0670	NEW-P	03-03-018
308- 99-040	AMD	03-04-092	388- 78A-0150	NEW-P	03-03-018	388- 78A-0680	NEW-P	03-03-018
308-124H-029	PREP	03-03-080	388- 78A-0160	NEW-P	03-03-018	388- 78A-0690	NEW-P	03-03-018
308-124H-061	PREP	03-03-080	388- 78A-0170	NEW-P	03-03-018	388- 78A-070	REP-P	03-03-018
308-129-100	AMD	03-03-055	388- 78A-0180	NEW-P	03-03-018	388- 78A-0700	NEW-P	03-03-018
308-420-010	REP	03-03-054	388- 78A-0190	NEW-P	03-03-018	388- 78A-0710	NEW-P	03-03-018
308-420-020	AMD	03-03-054	388- 78A-020	REP-P	03-03-018	388- 78A-0720	NEW-P	03-03-018
308-420-050	AMD	03-03-054	388- 78A-0200	NEW-P	03-03-018	388- 78A-0730	NEW-P	03-03-018
308-420-060	AMD	03-03-054	388- 78A-0210	NEW-P	03-03-018	388- 78A-0740	NEW-P	03-03-018
308-420-070	AMD	03-03-054	388- 78A-0220	NEW-P	03-03-018	388- 78A-0750	NEW-P	03-03-018
308-420-080	REP	03-03-054	388- 78A-0230	NEW-P	03-03-018	388- 78A-0760	NEW-P	03-03-018
308-420-090	AMD	03-03-054	388- 78A-0240	NEW-P	03-03-018	388- 78A-0770	NEW-P	03-03-018
308-420-100	AMD	03-03-054	388- 78A-0250	NEW-P	03-03-018	388- 78A-0780	NEW-P	03-03-018
308-420-130	REP	03-03-054	388- 78A-0260	NEW-P	03-03-018	388- 78A-0790	NEW-P	03-03-018
308-420-140	AMD	03-03-054	388- 78A-0270	NEW-P	03-03-018	388- 78A-080	REP-P	03-03-018
308-420-190	AMD	03-03-054	388- 78A-0280	NEW-P	03-03-018	388- 78A-0800	NEW-P	03-03-018
308-420-200	AMD	03-03-054	388- 78A-0290	NEW-P	03-03-018	388- 78A-0810	NEW-P	03-03-018
308-420-210	AMD	03-03-054	388- 78A-030	REP-P	03-03-018	388- 78A-0820	NEW-P	03-03-018
308-420-230	AMD	03-03-054	388- 78A-0300	NEW-P	03-03-018	388- 78A-0830	NEW-P	03-03-018
314- 12-170	REP-P	03-02-097	388- 78A-0310	NEW-P	03-03-018	388- 78A-0840	NEW-P	03-03-018
314- 12-180	REP-P	03-02-097	388- 78A-0320	NEW-P	03-03-018	388- 78A-0850	NEW-P	03-03-018
314- 12-300	REP-P	03-02-097	388- 78A-0330	NEW-P	03-03-018	388- 78A-0860	NEW-P	03-03-018
314- 12-310	REP-P	03-02-097	388- 78A-0340	NEW-P	03-03-018	388- 78A-0870	NEW-P	03-03-018
314- 12-320	REP-P	03-02-097	388- 78A-0350	NEW-P	03-03-018	388- 78A-0880	NEW-P	03-03-018
314- 12-330	REP-P	03-02-097	388- 78A-0360	NEW-P	03-03-018	388- 78A-0890	NEW-P	03-03-018
314- 12-340	REP-P	03-02-097	388- 78A-0370	NEW-P	03-03-018	388- 78A-090	REP-P	03-03-018
314- 29-003	NEW-P	03-02-097	388- 78A-0380	NEW-P	03-03-018	388- 78A-0900	NEW-P	03-03-018
314- 29-015	NEW-P	03-02-097	388- 78A-0390	NEW-P	03-03-018	388- 78A-0910	NEW-P	03-03-018
314- 29-020	NEW-P	03-02-097	388- 78A-040	REP-P	03-03-018	388- 78A-0920	NEW-P	03-03-018
314- 29-025	NEW-P	03-02-097	388- 78A-0400	NEW-P	03-03-018	388- 78A-0930	NEW-P	03-03-018
314- 29-030	NEW-P	03-02-097	388- 78A-0410	NEW-P	03-03-018	388- 78A-0940	NEW-P	03-03-018
314- 29-035	NEW-P	03-02-097	388- 78A-0420	NEW-P	03-03-018	388- 78A-0950	NEW-P	03-03-018
314- 29-040	NEW-P	03-02-097	388- 78A-0430	NEW-P	03-03-018	388- 78A-0960	NEW-P	03-03-018
352- 28	PREP	03-04-115	388- 78A-0440	NEW-P	03-03-018	388- 78A-0970	NEW-P	03-03-018
352- 40	PREP	03-04-038	388- 78A-045	REP-P	03-03-018	388- 78A-0980	NEW-P	03-03-018

### **Table of WAC Sections Affected**

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
388-180-0170	NEW	03-04-013	388-825-576	NEW-E	03-03-115	446-75-010	AMD-P	03-04-070
388-180-0180	NEW	03-04-013	388-825-580	NEW-E	03-03-115	446-75-020	AMD-P	03-04-070
388-180-0190	NEW	03-04-013	388-825-585	NEW-E	03-03-115	446-75-030	AMD-P	03-04-070
388-180-0200	NEW	03-04-013	388-825-590	NEW-E	03-03-115	446-75-060	AMD-P	03-04-070
388-180-0210	NEW	03-04-013	388-825-591	NEW-E	03-03-115	446-75-070	AMD-P	03-04-070
388-180-0220	NEW	03-04-013	388-825-592	NEW-E	03-03-115	446-75-080	AMD-P	03-04-070
388-180-0230	NEW	03-04-013	388-825-600	NEW-E	03-03-115	458-12-060	PREP	03-03-100
388-310-0800	AMD-E	03-04-066	388-850-035	AMD-E	03-03-115	458-12-065	PREP	03-03-100
388-406-0015	PREP-W	03-03-112	388-850-045	AMD-E	03-03-115	458-12-070	PREP	03-03-100
388-424-0005	PREP	03-03-007	390	PREP	03-04-095	458-12-075	PREP	03-03-100
388-424-0010	PREP	03-03-007	390-17-110	NEW-S	03-04-094	458-12-080	PREP	03-03-100
388-424-0015	PREP	03-03-007	391-08-001	AMD	03-03-064	458-12-360	PREP	03-03-100
388-436-0002	AMD-E	03-04-067	391-08-630	AMD	03-03-064	458-16-010	REP-P	03-03-099
388-450-0045	AMD	03-03-071	391-08-670	AMD	03-03-064	458-16-011	REP-P	03-03-099
388-450-0050	AMD-P	03-03-008	391-08-670	PREP	03-03-066	458-16-012	REP-P	03-03-099
388-460-0005	AMD	03-03-072	391-25-001	AMD	03-03-064	458-16-013	REP-P	03-03-099
388-474-0012	NEW	03-03-114	391-25-002	AMD	03-03-064	458-16-020	REP-P	03-03-099
388-476-0005	PREP	03-04-086	391-25-011	AMD	03-03-064	458-16-022	REP-P	03-03-099
388-478-0055	AMD	03-03-114	391-25-032	NEW	03-03-064	458-16-030	REP-P	03-03-099
388-502-0010	PREP	03-03-017	391-25-036	NEW	03-03-064	458-16-040	REP-P	03-03-099
388-502-0010	AMD-E	03-03-027	391-25-037	NEW	03-03-064	458-16-060	REP-P	03-03-099
388-523-0120	PREP	03-04-085	391-25-051	NEW	03-03-064	458-16-070	REP-P	03-03-099
388-531	PREP	03-04-087	391-25-076	NEW	03-03-064	458-16-079	REP-P	03-03-099
388-546	PREP	03-04-087	391-25-096	NEW	03-03-064	458-16A	AMD-P	03-03-099
388-550-2800	PREP	03-04-087	391-25-136	NEW	03-03-064	458-16A-100	NEW-P	03-03-099
388-550-4800	PREP	03-04-087	391-25-137	NEW	03-03-064	458-16A-110	NEW-P	03-03-099
388-550-5450	PREP	03-04-087	391-25-197	NEW	03-03-064	458-16A-115	NEW-P	03-03-099
388-550-6000	PREP	03-04-087	391-25-216	NEW	03-03-064	458-16A-120	NEW-P	03-03-099
388-730-0010	AMD	03-03-070	391-25-216	PREP	03-03-066	458-16A-130	NEW-P	03-03-099
388-730-0060	AMD	03-03-070	391-25-217	NEW	03-03-064	458-16A-135	NEW-P	03-03-099
388-730-0065	AMD	03-03-070	391-25-396	NEW	03-03-064	458-16A-140	NEW-P	03-03-099
388-730-0070	AMD	03-03-070	391-25-416	NEW	03-03-064	458-16A-150	NEW-P	03-03-099
388-730-0090	AMD	03-03-070	391-25-426	NEW-E	03-03-065	458-20-135	AMD-P	03-04-032
388-820-020	AMD-E	03-03-115	391-25-426	PREP	03-03-066	458-20-17803	NEW-E	03-04-031
388-820-060	AMD-E	03-03-115	391-25-427	NEW	03-03-064	458-20-231	REP-X	03-04-030
388-820-120	AMD-E	03-03-115	391-25-476	NEW	03-03-064	458-20-24003	PREP	03-03-101
388-825-020	AMD-E	03-03-115	391-25-496	NEW	03-03-064	468-06-040	AMD-X	03-04-062
388-825-055	AMD-E	03-03-115	391-35-001	AMD	03-03-064	468-15-010	NEW	03-03-012
388-825-100	AMD-E	03-03-115	391-35-002	AMD	03-03-064	468-15-020	NEW	03-03-012
388-825-120	AMD-E	03-03-115	391-35-026	NEW	03-03-064	468-15-030	NEW	03-03-012
388-825-180	AMD-E	03-03-115	391-35-326	NEW	03-03-064	468-15-040	NEW	03-03-012
388-825-205	AMD-E	03-03-115	391-35-327	NEW	03-03-064	468-15-050	NEW	03-03-012
388-825-252	AMD-E	03-03-115	391-35-346	NEW	03-03-064	468-15-060	NEW	03-03-012
388-825-254	AMD-E	03-03-115	391-35-347	NEW	03-03-064	468-38-340	AMD	03-03-035
388-825-500	NEW-E	03-03-115	391-35-356	NEW	03-03-064	468-58-080	AMD-E	03-04-040
388-825-505	NEW-E	03-03-115	391-45-001	AMD	03-03-064	468-95-010	AMD-E	03-03-028
388-825-510	NEW-E	03-03-115	391-45-002	AMD	03-03-064	468-95-010	AMD-P	03-03-029
388-825-515	NEW-E	03-03-115	391-45-056	NEW	03-03-064	468-95-020	REP-E	03-03-028
388-825-520	NEW-E	03-03-115	391-55-001	AMD	03-03-064	468-95-020	REP-P	03-03-029
388-825-525	NEW-E	03-03-115	391-55-002	AMD	03-03-064	468-95-025	REP-E	03-03-028
388-825-530	NEW-E	03-03-115	391-55-200	AMD	03-03-064	468-95-025	REP-P	03-03-029
388-825-535	NEW-E	03-03-115	391-65-001	AMD	03-03-064	468-95-030	REP-E	03-03-028
388-825-540	NEW-E	03-03-115	391-65-002	AMD	03-03-064	468-95-030	REP-E	03-03-028
388-825-545	NEW-E	03-03-115	391-65-110	AMD	03-03-064	468-95-035	REP-E	03-03-028
388-825-546	NEW-E	03-03-115	391-95-001	AMD	03-03-064	468-95-035	REP-P	03-03-029
388-825-550	NEW-E	03-03-115	391-95-010	AMD	03-03-064	468-95-037	REP-E	03-03-028
388-825-555	NEW-E	03-03-115	392-140-908	AMD	03-03-001	468-95-037	REP-P	03-03-029
388-825-560	NEW-E	03-03-115	392-140-912	AMD	03-03-001	468-95-040	REP-E	03-03-028
388-825-565	NEW-E	03-03-115	392-142	PREP	03-03-033	468-95-040	REP-P	03-03-029
388-825-570	NEW-E	03-03-115	392-143	PREP	03-03-034	468-95-050	REP-E	03-03-028
388-825-571	NEW-E	03-03-115	415-02	PREP	03-04-017	468-95-050	REP-P	03-03-029
388-825-575	NEW-E	03-03-115	415-10	PREP	03-04-017	468-95-055	REP-E	03-03-028

Table of WAC Sections Affected

WAC #	ACTION	WSR #	WAC #	ACTION	WSR #	WAC #	ACTION	WSR #
468- 95-055	REP-P	03-03-029	468- 95-360	NEW-P	03-03-029			
468- 95-060	REP-E	03-03-028	468- 95-370	NEW-E	03-03-028			
468- 95-060	REP-P	03-03-029	468- 95-370	NEW-P	03-03-029			
468- 95-070	REP-E	03-03-028	468- 95-400	NEW-E	03-03-028			
468- 95-070	REP-P	03-03-029	468- 95-400	NEW-P	03-03-029			
468- 95-080	REP-E	03-03-028	468-300-010	AMD-P	03-04-102			
468- 95-080	REP-P	03-03-029	468-300-020	AMD-P	03-04-102			
468- 95-090	REP-E	03-03-028	468-300-040	AMD-P	03-04-102			
468- 95-090	REP-P	03-03-029	468-300-220	AMD-P	03-04-102			
468- 95-100	REP-E	03-03-028	468-300-700	AMD-P	03-04-102			
468- 95-100	REP-P	03-03-029	480-120-017	NEW	03-03-090			
468- 95-110	NEW-E	03-03-028	480-120-019	NEW	03-03-090			
468- 95-110	NEW-P	03-03-029	480-120-173	NEW	03-03-090			
468- 95-120	NEW-E	03-03-028						
468- 95-120	NEW-P	03-03-029						
468- 95-130	NEW-E	03-03-028						
468- 95-130	NEW-P	03-03-029						
468- 95-140	NEW-E	03-03-028						
468- 95-140	NEW-P	03-03-029						
468- 95-150	NEW-E	03-03-028						
468- 95-150	NEW-P	03-03-029						
468- 95-160	NEW-E	03-03-028						
468- 95-160	NEW-P	03-03-029						
468- 95-170	NEW-E	03-03-028						
468- 95-170	NEW-P	03-03-029						
468- 95-180	NEW-E	03-03-028						
468- 95-180	NEW-P	03-03-029						
468- 95-190	NEW-E	03-03-028						
468- 95-190	NEW-P	03-03-029						
468- 95-200	NEW-E	03-03-028						
468- 95-200	NEW-P	03-03-029						
468- 95-210	NEW-E	03-03-028						
468- 95-210	NEW-P	03-03-029						
468- 95-220	NEW-E	03-03-028						
468- 95-220	NEW-P	03-03-029						
468- 95-230	NEW-E	03-03-028						
468- 95-230	NEW-P	03-03-029						
468- 95-240	NEW-E	03-03-028						
468- 95-240	NEW-P	03-03-029						
468- 95-250	NEW-E	03-03-028						
468- 95-250	NEW-P	03-03-029						
468- 95-260	NEW-E	03-03-028						
468- 95-260	NEW-P	03-03-029						
468- 95-270	NEW-E	03-03-028						
468- 95-270	NEW-P	03-03-029						
468- 95-280	NEW-E	03-03-028						
468- 95-280	NEW-P	03-03-029						
468- 95-290	NEW-E	03-03-028						
468- 95-290	NEW-P	03-03-029						
468- 95-300	NEW-E	03-03-028						
468- 95-300	NEW-P	03-03-029						
468- 95-310	NEW-E	03-03-028						
468- 95-310	NEW-P	03-03-029						
468- 95-320	NEW-E	03-03-028						
468- 95-320	NEW-P	03-03-029						
468- 95-330	NEW-E	03-03-028						
468- 95-330	NEW-P	03-03-029						
468- 95-340	NEW-E	03-03-028						
468- 95-340	NEW-P	03-03-029						
468- 95-350	NEW-E	03-03-028						
468- 95-350	NEW-P	03-03-029						
468- 95-360	NEW-E	03-03-028						



**Subject/Agency Index**  
 (Citation in bold type refer to material in this issue)

<b>ACADEMIC ACHIEVEMENT AND ACCOUNTABILITY COMMISSION</b>		<b>BELLINGHAM TECHNICAL COLLEGE</b>	
Meetings	MISC 03-02-027	Meetings	MISC 03-01-028
Performance and improvement goals	PREP 03-02-013		MISC 03-01-083
<b>ACCOUNTANCY, BOARD OF</b>		<b>BENTON CLEAN AIR AUTHORITY</b>	
Examinations		Meetings	MISC 03-03-003
application procedure	PREP 03-01-101		MISC 03-03-013
fees	PREP 03-01-102	Rules coordinator	MISC 03-03-014
Meetings	MISC 03-01-100		
<b>ADVANCED TUITION PAYMENT, COMMITTEE ON</b>		<b>BIG BEND COMMUNITY COLLEGE</b>	
Meetings	MISC 03-03-050	Meetings	MISC 03-02-048
<b>AGING AND ADULT SERVICES (See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)</b>		<b>BLIND, DEPARTMENT OF SERVICES FOR THE</b>	
		Meetings	MISC 03-03-058
<b>AGRICULTURE, DEPARTMENT OF</b>		<b>BUILDING CODE COUNCIL</b>	
Asparagus commission	MISC 03-03-005	Elevator shaft pressurization	PERM 03-01-055
Barley commission	MISC 03-04-034	Meetings	MISC 03-01-056
Beef commission	MISC 03-03-073		
Caneberry certification fees	PREP 03-03-120	<b>CASCADIA COMMUNITY COLLEGE</b>	
Canola/rapeseed commission	MISC 03-01-120	Meetings	MISC 03-01-099
Dairy products commission	MISC 03-04-015		
Fertilizer violations	PERM 03-02-100	<b>CENTRAL WASHINGTON UNIVERSITY</b>	
Forest reproductive material	PROP 03-02-094	Meetings	MISC 03-03-049
Fruit and vegetable inspection fees	PREP 03-03-131		
Grain inspection fees	PREP 03-03-086	<b>CLARK COLLEGE</b>	
Grass sod	EXPE 03-03-124	Meetings	MISC 03-02-025
Hop commission	MISC 03-01-074	Rules coordinator	MISC 03-02-034
Horticulture			
bacterial ring rot in seed potatoes	EXPE 03-01-126	<b>CODE REVISER'S OFFICE</b>	
plant tagging requirements	PREP 03-01-125	Quarterly reports	
Liquefied petroleum gas, motor and heating fuel	PREP 03-03-122	02-19 - 02-24 See Issue 03-01	
Noxious weed control board meetings	MISC 03-04-037	<b>COLUMBIA BASIN COLLEGE</b>	
noxious weed list	PERM 03-04-001	Meeting	MISC 03-01-036
Organic foods certification of processors	PERM 03-03-044		
standards and certification	PERM 03-03-045	<b>COMMUNITY, TRADE, AND ECONOMIC DEVELOPMENT, DEPARTMENT OF</b>	
Pesticides mosquito larvae control	PROP 03-02-099	Public works board	
thiamethoxam	PROP 03-02-098	meetings	MISC 03-03-036
Poultry Exotic Newcastle Disease quarantine	EMER 03-03-085		
Rules agenda	MISC 03-04-068	<b>CONSERVATION COMMISSION</b>	
Seed certification fees	PROP 03-02-095	Meetings	MISC 03-01-066
Strawberry plant certification fees	PROP 03-03-130		
Turfgrass seed commission	PREP 03-03-121	<b>CONVENTION AND TRADE CENTER</b>	
Weights and measures national standards	MISC 03-01-121	Meetings	MISC 03-01-067
Wine commission	EXPE 03-03-123		MISC 03-01-068
	PERM 03-01-048		MISC 03-01-098
	MISC 03-04-002		MISC 03-03-092
<b>AIR POLLUTION</b> (See ECOLOGY, DEPARTMENT OF; individual air pollution control agencies)		<b>CORRECTIONS, DEPARTMENT OF</b>	
		Meetings	MISC 03-03-030
		Rules	MISC 03-02-075
		agenda	
		<b>COUNTY ROAD ADMINISTRATION BOARD</b>	
		Meetings	MISC 03-04-106
		Rules coordinator	MISC 03-01-091
<b>ASIAN PACIFIC AMERICAN AFFAIRS, COMMISSION ON</b>		<b>CRIMINAL JUSTICE TRAINING COMMISSION</b>	
Meetings	MISC 03-04-057	Basic certification	PROP 03-01-038
		Corrections	
		training	
		Firearms certification	
<b>ATTORNEY GENERAL</b>			
Notice of request for opinion	MISC 03-04-114	Peace officer certification	PERM 03-02-009
<b>BATES TECHNICAL COLLEGE</b>		Police dog handlers	PERM 03-02-007
Meetings	MISC 03-01-090	Rules	PERM 03-02-008
	MISC 03-03-088	withdrawal	PROP 03-03-091
	MISC 03-03-094		PROP 03-01-092
	MISC 03-04-014		
<b>BELLEVUE COMMUNITY COLLEGE</b>		<b>DEAF, WASHINGTON STATE SCHOOL FOR THE</b>	
Complaint procedures	PREP 03-04-073	Meetings	MISC 03-01-105
Meetings	MISC 03-01-085		MISC 03-03-087
Organization and operating policies	PERM 03-01-009	<b>EASTERN WASHINGTON UNIVERSITY</b>	
Parking and traffic procedures	PREP 03-04-074	Meetings	MISC 03-01-073
State Environmental Policy Act	PERM 03-01-008		MISC 03-03-125
Student code	PREP 03-04-075		MISC 03-04-016
		<b>ECOLOGY, DEPARTMENT OF</b>	
		Agricultural water supply facilities	PROP 03-02-033

## **Subject/Agency Index**

(Citation in bold type refer to material in this issue)

Controlled substances, disposal of dangerous waste	EMER 03-03-047	Denman Island disease	EMER 03-01-078
Delegation, employees	EXPE 03-04-081	dogfish	PROP 03-02-036
Meetings	MISC 03-01-057	herring	PROP 03-02-077
Rules		salmon	EMER 03-01-032
agenda	MISC 03-02-089		PROP 03-02-031
Shorelines management	PREP 03-03-019		EMER 03-02-091
Solid waste			EMER 03-02-092
financial assurance requirements	PERM 03-04-103		EMER 03-04-033
handling standards	PERM 03-03-043		EMER 03-04-078
State Environmental Policy Act (SEPA)	PROP 03-03-082	salmon eggs	PROP 03-02-032
Water		sardines	PREP 03-03-053
surface water quality standards	PROP 03-01-124	sea urchins	EMER 03-01-054
underground artificial storage	PROP 03-04-082		EMER 03-02-046
Water rights	PERM 03-03-081		EMER 03-03-002
water conservancy boards	PERM 03-01-039		EMER 03-03-068
<b>ECONOMIC DEVELOPMENT FINANCE AUTHORITY</b>			
Meetings	MISC 03-04-071	shellfish	
<b>EDMONDS COMMUNITY COLLEGE</b>		geoduck	PREP 03-01-053
Meetings	MISC 03-02-028	horse clams	PREP 03-01-053
<b>EDUCATION, STATE BOARD OF</b>		squid	PREP 03-01-076
Certification standards		shrimp	PROP 03-02-030
			PROP 03-02-037
		smelt	EMER 03-02-017
Courses of study		Fishing, recreational	
District organization		crab	EMER 03-01-108
small schools		shellfish	
Endorsements		clams other than razor clams	EMER 03-02-093
		oysters	EMER 03-02-093
First people's language certification		smelt	EMER 03-02-018
High school graduation requirements		steelhead	EMER 03-03-004
transcripts			EMER 03-03-098
Library media centers		sturgeon	EMER 03-04-047
Meetings		Hunting	EMER 03-03-135
National certification		advanced hunter education	PERM 03-01-077
		big game and wild turkey auction	PERM 03-03-016
Private schools		black bear	PERM 03-02-005
Rules		depredation permits	PREP 03-01-052
withdrawal		designated hunter companion rules	PREP 03-02-045
		game management units	PROP 03-02-103
School accreditation		private lands wildlife management	PERM 03-03-016
		special closures	PREP 03-02-102
		special hunting season permits	PERM 03-02-005
		waterfowl	EMER 03-02-006
		Livestock grazing	EMER 03-03-102
		Marine fin fish aquaculture	PERM 03-03-016
		Oyster diseases and shellfish pests	PERM 03-02-047
		Raptors	PREP 03-02-035
		Rules	PERM 03-02-005
		agenda	MISC 03-02-107
		withdrawals	PROP 03-02-082
		SEPA procedures	PROP 03-02-084
			PREP 03-02-076
<b>EDUCATOR STANDARDS BOARD, PROFESSIONAL</b>			
Meetings	MISC 03-02-061	<b>FOREST PRACTICES BOARD</b>	
		(See NATURAL RESOURCES, DEPARTMENT OF)	
<b>EMPLOYMENT SECURITY, DEPARTMENT OF</b>			
Extended benefits	PROP 03-01-103	<b>GAMBLING COMMISSION</b>	
Rules		Bingo	PREP 03-02-042
agenda	MISC 03-04-064	Control of gambling equipment	PREP 03-03-084
		Equipment	PERM 03-02-043
		Licenses	PREP 03-04-065
		fees	PERM 03-01-031
<b>EVERGREEN STATE COLLEGE, THE</b>			
Meetings	MISC 03-02-085	<b>GENERAL ADMINISTRATION, DEPARTMENT OF</b>	
		Meetings	MISC 03-01-042
<b>FINANCIAL INSTITUTIONS, DEPARTMENT OF</b>			MISC 03-03-021
Rules			MISC 03-03-126
agenda	MISC 03-04-039		MISC 03-04-048
<b>FISH AND WILDLIFE, DEPARTMENT OF</b>			
Falcons	PERM 03-03-016	<b>GOVERNOR, OFFICE OF THE</b>	
Fish and wildlife commission	MISC 03-03-048	Clemency and pardons board	MISC 03-04-018
Fishing, commercial		meetings	MISC 03-04-036
bottomfish	PROP 03-02-105		
crab	EMER 03-04-058		
	EMER 03-01-033		
	EMER 03-01-063		
	EMER 03-02-019		
	EMER 03-04-007		
	EMER 03-04-046		
	PROP 03-02-044	<b>GRAYS HARBOR COLLEGE</b>	
Deep River		Meetings	MISC 03-01-086
		<b>GREEN RIVER COMMUNITY COLLEGE</b>	
		Meetings	MISC 03-02-026

**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

**GUARANTEED EDUCATION TUITION PROGRAM**  
(See **ADVANCED TUITION PAYMENT, COMMITTEE ON**)

**HEALTH CARE AUTHORITY**

Basic health plan  
enrollment limits

PREP 03-02-096

**HEALTH, DEPARTMENT OF**

Biological specimens  
Decontamination of illegal drug operations  
Denture technology  
licensure  
Department description and organization  
Health care credential fees  
Heart surgery and cardiac programs  
Hospice services  
Interpretive or policy statements  
Massage

animal massage training

Optometry  
continuing education credit

Pharmacy  
schedule II nonnarcotic stimulants  
schedule III controlled substances

Radiation  
dosimetry and well-loggers

Radiologic technologists  
alternative training

Recreational therapists

AIDS education and training  
Rules

agenda

withdrawal

Uniform controlled substances  
xyrem

Veterinary board of governors  
animal technician

Water  
drinking water

PREP 03-02-101

PERM 03-02-022

EXPE 03-01-113

**EXPE 03-04-105**

PROP 03-03-077

PROP 03-01-112

PROP 03-03-097

MISC 03-04-041

PROP 03-01-111

**PREP 03-04-043**

**PERM 03-04-045**

PERM 03-02-021

PREP 03-03-076

PROP 03-01-110

PREP 03-02-020

MISC 03-03-075

MISC 03-04-050

**PREP 03-04-042**

EXPE 03-03-096

**PROP 03-04-104**

PROP 03-03-078

PROP 03-03-079

**PREP 03-04-044**

MISC 03-01-059

MISC 03-02-029

**HIGHER EDUCATION CONSORTIUM**

Meetings

MISC 03-01-059

MISC 03-02-029

**HIGHER EDUCATION COORDINATING BOARD**

Community scholarship matching grant program

**PERM 03-04-101**

Degree-granting Institutions Act

**PREP 03-04-079**

Meetings

MISC 03-03-046

**HIGHLINE COMMUNITY COLLEGE**

Meetings

MISC 03-01-084

**HORSE RACING COMMISSION**

Closing of wager

PREP 03-01-016

**PROP 03-04-089**

PROP 03-02-015

PERM 03-03-041

PROP 03-03-040

PROP 03-03-039

PROP 03-03-067

PROP 03-02-016

PROP 03-03-108

PROP 03-03-025

PROP 03-01-019

PROP 03-03-038

PROP 03-01-017

**PROP 03-04-090**

PROP 03-01-018

**HUMAN RIGHTS COMMISSION**

Meetings

MISC 03-02-052

**HUNTING**

(See **FISH AND WILDLIFE, DEPARTMENT OF**)

**INDUSTRIAL INSURANCE APPEALS, BOARD OF**

Practice and procedure

PERM 03-02-038

**INSURANCE COMMISSIONER**

Automobile claims, repairs, and total loss  
settlements

PROP 03-03-132

Longshore and harbor workers assigned risk plan

PERM 03-03-052

Network reports

EXPE 03-03-134

Rules

withdrawal

PROP 03-03-063

Special liability report

PERM 03-03-133

Technical assistance advisory

MISC 03-03-093

**INTERAGENCY COMMITTEE, OFFICE OF THE**

Interagency committee for outdoor recreation  
meetings

MISC 03-01-041

salmon recovery funding board

MISC 03-03-037

Rules

agenda

MISC 03-03-006

**INTEREST RATES**

(See inside cover)

**INVESTMENT BOARD, STATE**

Meetings

MISC 03-03-020

MISC 03-03-057

**JAIL INDUSTRIES BOARD**

Meetings

MISC 03-01-037

MISC 03-03-107

**JUDICIAL CONDUCT, COMMISSION ON**

Meetings

MISC 03-01-021

MISC 03-01-106

**LABOR AND INDUSTRIES, DEPARTMENT OF**

Access to records and trade secrets

PROP 03-04-097

Agriculture, safety standards

EXPE 03-04-100

Bloodborne pathogens

PROP 03-01-097

Boiler rules, board of

fee

PREP 03-03-129

Conversion factors and daily reimbursement level

PREP 03-01-095

Family care

PERM 03-03-010

Fees

PREP 03-04-098

Manufacturers, importers, and

distributors-hazard communication

PERM 03-01-096

Meetings

MISC 03-02-090

Minimum wages

PERM 03-03-109

Policy and interpretive statements

MISC 03-01-094

MISC 03-04-096

Rules

agenda

PROP 03-02-083

withdrawals

Safety and health standards

PREP 03-03-110

scaffold

PERM 03-04-099

shipbuilding and shipbreaking

Workers' compensation

PREP 03-03-026

**LAKE WASHINGTON TECHNICAL COLLEGE**

Meetings

MISC 03-01-034

Rules

corrections

PERM 03-01-070

**LAW BOARD, PRACTICE OF**

Meetings

MISC 03-01-118

**LICENSING, DEPARTMENT OF**

Camping resorts

PERM 03-03-054

Cemetery board

PREP 03-04-077

Cosmetology, barber, manicurist, and

estheticians

PROF 03-03-119

Firearms, aliens

PERM 03-03-024

Funeral directors and embalmers, board of

PREP 03-04-076

Geologists

PREP 03-04-080

Landscape architects

PREP 03-04-056

Motor vehicles

PROF 03-01-014

certificates of title

PROF 03-03-095

licenses

PREP 03-01-006

registration

PROF 03-01-013

Real estate

PERM 03-01-015

PERM 03-04-092

PERM 03-02-001

## Subject/Agency Index

(Citation in bold type refer to material in this issue)

	PREP	03-02-002	<b>PUBLIC DISCLOSURE COMMISSION</b>
Real estate commission	PERM	03-02-040	Contribution limitations
meetings	PREP	03-03-080	voluntary payroll deductions
Rules	MISC	03-02-003	PROP 03-01-089
agenda	MISC	03-01-080	<b>PROP 03-04-094</b>
withdrawals	PREP	03-01-012	PROP 03-01-088
Sellers of travel	PERM	03-03-055	MISC 03-01-020
Vessels			<b>PREP 03-04-095</b>
registration and certification	PROP	03-01-104	MISC 03-04-069
Wastewater treatment system, on-site	PREP	03-03-111	
<b>LIQUOR CONTROL BOARD</b>	PROP	03-02-097	
Violations			
<b>LOTTERY COMMISSION</b>			
Licensing procedure	PROP	03-01-047	<b>PUBLIC EMPLOYMENT RELATIONS COMMISSION</b>
promotional license	MISC	03-03-059	Personnel System Reform Act of 2002
Meetings	MISC	03-04-107	PERM 03-03-064
Policy statements	MISC	03-04-063	EMER 03-03-065
			<b>PREP 03-03-066</b>
<b>LOWER COLUMBIA COLLEGE</b>			Practice and procedure
Meetings	MISC	03-01-035	Representation case rules
			Rules
<b>MARINE EMPLOYEES' COMMISSION</b>			agenda
Meetings	MISC	03-01-049	MISC 03-01-058
<b>MEDICAL ASSISTANCE</b>			
(See SOCIAL AND HEALTH SERVICES, DEPARTMENT OF)			<b>PUBLIC INSTRUCTION, SUPERINTENDENT OF</b>
<b>MILITARY, DEPARTMENT</b>			Allocations, special
Enhanced 9-1-1 funding	PROP	03-04-108	PERM 03-03-001
Meetings	MISC	03-03-032	PREP 03-03-033
			PREP 03-03-034
<b>NATURAL RESOURCES, DEPARTMENT OF</b>			Special education
Forest practices board	MISC	03-01-128	PERM 03-02-053
meetings	MISC	03-03-011	
rules coordinator	MISC	03-01-127	
Natural heritage advisory council	MISC	03-04-093	
Rules	MISC	03-02-108	<b>PUGET SOUND CLEAN AIR AGENCY</b>
agenda	MISC	03-04-061	Asbestos-containing waste material
			PERM 03-02-024
<b>OLYMPIC COLLEGE</b>			Mitigation of greenhouse gas emissions
Meetings	MISC	03-01-122	PROP 03-01-107
			<b>PROP 03-04-049</b>
<b>OUTDOOR RECREATION, INTERAGENCY COMMITTEE FOR</b>			Rules
(See INTERAGENCY COMMITTEE, OFFICE OF THE)			withdrawal
<b>PARKS AND RECREATION COMMISSION</b>			
Meetings	MISC	03-02-039	<b>QUARTERLY REPORTS</b>
	MISC	03-02-104	(See CODE REVISER'S OFFICE)
Public records	PREP	03-04-038	
Public use of state parks	PERM	03-01-079	<b>RENTON TECHNICAL COLLEGE</b>
	PREP	03-01-129	Meetings
Tree, plant and fungi cutting, removal and/or disposal	PREP	03-04-115	MISC 03-02-012
<b>PENINSULA COLLEGE</b>			<b>RETIREMENT SYSTEMS, DEPARTMENT OF</b>
Policies, practices, and procedures	PREP	03-04-091	Actuarial factors
			PROP 03-02-041
<b>PERSONNEL RESOURCES BOARD</b>			General provisions
(See PERSONNEL, DEPARTMENT OF)			PROP 03-01-050
<b>PERSONNEL, DEPARTMENT OF</b>			excess compensation
Community and technical colleges, state board for definitions	EMER	03-03-042	Law enforcement officers' and fire fighters' retirement system
Meetings	MISC	03-01-001	earnable compensation
			Public employees' retirement system
<b>PIERCE COLLEGE</b>			earnable compensation
Meetings	MISC	03-01-119	Purchasing service credit, lump sum costs
			Rules
<b>POLLUTION LIABILITY INSURANCE AGENCY</b>			clarifications
Technical assistance reference	PROP	03-01-007	
<b>PROFESSIONAL EDUCATOR STANDARDS BOARD</b>			<b>SCHOOL EMPLOYEES' RETIREMENT SYSTEM</b>
(See EDUCATOR STANDARDS BOARD, PROFESSIONAL)			earnable compensation
			PROP 03-02-086
			PERM 03-02-087
			<b>TEACHERS' RETIREMENT SYSTEM</b>
			earnable compensation
			PROP 03-01-051
			<b>REVENUE, DEPARTMENT OF</b>
			Excise tax
			extracting natural products
			high technology business tax incentives
			tax on internal distribution
			Forest land and timber
			Interpretive or policy statements
			<b>PROPERTY TAX</b>
			listing personal property
			seniors and disabled, exemptions
			Rules
			agenda
			Ships and vessels
			Use tax
			promotional material
			<b>RULES COORDINATORS</b>
			(See Issue 03-01 for complete list designated as of 12/19/02)
			Bates technical college
			Clark college
			County road administration board
			MISC 03-03-013
			MISC 03-02-034
			MISC 03-01-091

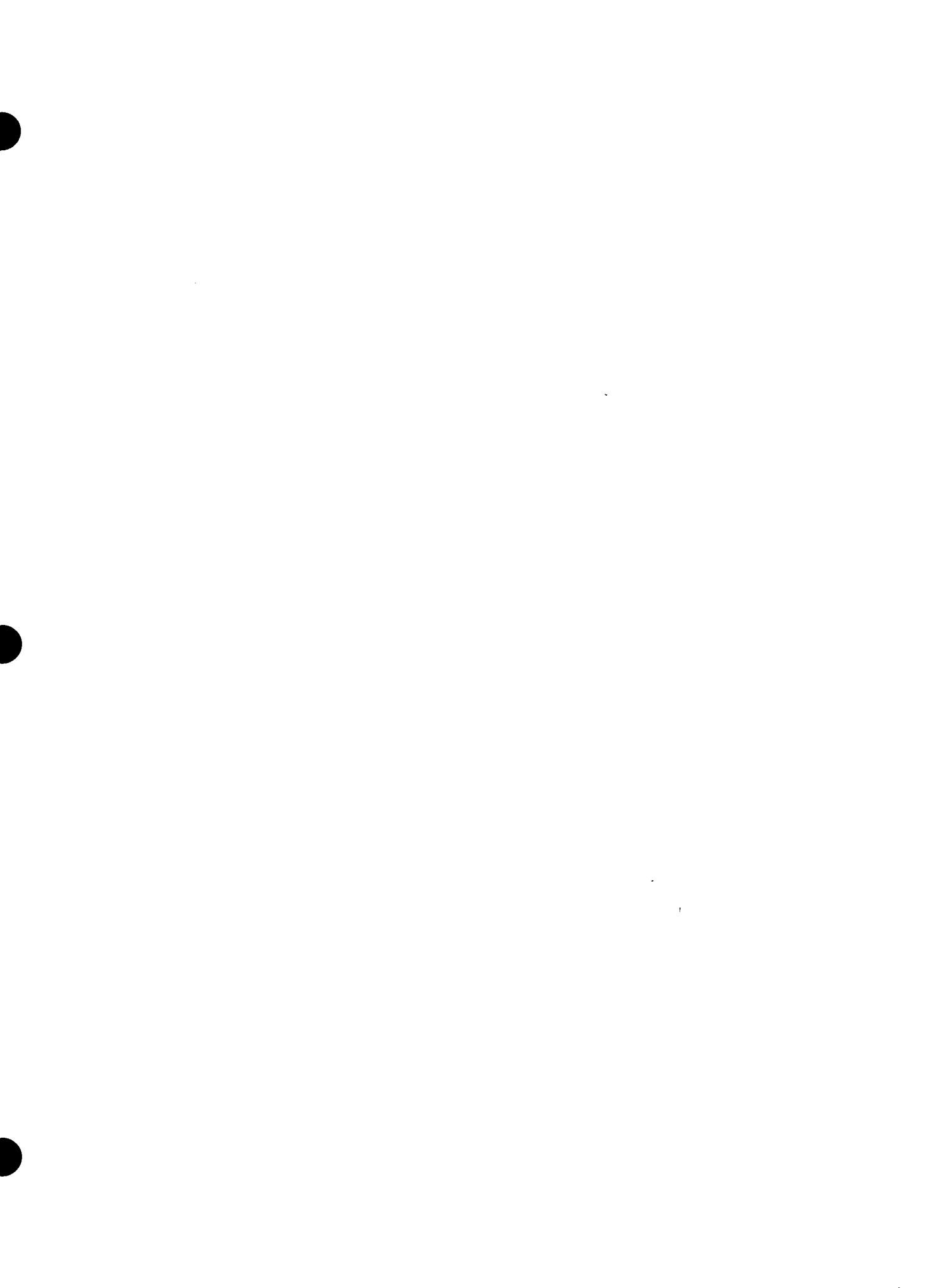
## Subject/Agency Index

(Citation in **bold type** refer to material in this issue)

Forest practices board	MISC 03-01-127	withdrawal	PROP 03-01-093
<b>SALARIES FOR ELECTED OFFICIALS, WASHINGTON CITIZENS' COMMISSION ON</b>			PREP 03-03-112
Meetings	MISC 03-01-087	Vocational rehabilitation services federal compliance	PREP 03-03-113
<b>SKAGIT VALLEY COLLEGE</b>		Washington combined application project (WASHCAP)	PERM 03-02-014
Meetings	MISC 03-03-015	WorkFirst	PERM 03-01-045
	MISC 03-04-059	transitional work expense	EMER 03-04-066
<b>SOCIAL AND HEALTH SERVICES, DEPARTMENT OF</b>			
Aging and adult services	PROP 03-01-010	<b>SOUTH PUGET SOUND COMMUNITY COLLEGE</b>	
adult day services	PROP 03-03-018	Distribution and posting of materials	PERM 03-03-089
boarding home licensing	PROP 03-01-116	Meetings	MISC 03-03-051
comprehensive assessment reporting evaluation (CARE)	PREP 03-02-078		
contracted residential care services	PERM 03-02-079	<b>SPORTS, PROFESSIONAL</b>	
Alcohol and substance abuse	EMER 03-04-067	(See HORSE RACING COMMISSION)	
chemical dependency assistance programs	PREP 03-03-007		
Assistance programs	PERM 03-01-005	<b>SUPREME COURT, STATE</b>	
additional requirements for emergent needs	PREP 03-01-061	Appeal, rules on	MISC 03-01-023
program	PROP 03-01-062	General application, rules of	MISC 03-01-027
citizenship/alien status	PROP 03-02-064	Limited jurisdiction, courts of	MISC 03-01-025
food assistance	PROP 03-02-065	Superior court	MISC 03-01-026
income	PERM 03-02-066	<b>TACOMA COMMUNITY COLLEGE</b>	
limited English proficient services (LEP)	PERM 03-03-072	Meetings	MISC 03-01-030
resource eligibility and limits	PROP 03-03-008		
standards for payment	PERM 03-03-071	<b>TAX APPEALS, BOARD OF</b>	
Child care agencies/licensing requirements	PERM 03-01-115	Meetings	MISC 03-01-029
emergency respite centers	EMER 03-02-080		
seasonal child care program	PERM 03-03-114	<b>TRANSPORTATION COMMISSION</b>	
Child support, division of	PROP 03-01-117	Meetings	MISC 03-01-069
Uniform Parentage Act	PREP 03-01-060		MISC 03-02-050
Children's administration	EMER 03-04-088		
adoption	PERM 03-02-059	<b>TRANSPORTATION, DEPARTMENT OF</b>	
Deaf, Washington State School for the	PERM 03-04-013	Central field office descriptions	EXPE 03-04-062
family reconciliation services	PREP 03-03-056	Ferries	
group receiving centers	EMER 03-03-069	fares	PREP 03-01-114
Developmental disabilities services	PERM 03-02-063		PROP 03-04-102
community residential services and supports	EMER 03-03-115	Rules	
state supplemental payment (SSP)	PERM 03-03-070	agenda	MISC 03-02-062
Juvenile rehabilitation	PERM 03-01-044	Small works roster	PERM 03-03-012
placement	PREP 03-02-058	Special motor vehicles	
powers of administrative law judge	PREP 03-03-017	permit issuance	PERM 03-02-057
Medical assistance	EMER 03-03-027	Uniform traffic control devices, manual	EMER 03-03-028
administration of programs	EXPE 03-02-060	Vehicles	PROP 03-03-029
AIDS, CASA services	PREP 03-04-086	oversize/overweight vehicles, speed limits	PERM 03-03-035
children's health program	MISC 03-01-002	Wireless communication access to highways	EMER 03-04-040
interpretive or policy statements	MISC 03-01-003		PREP 03-04-113
long term acute care	MISC 03-01-004		
pharmacy services	MISC 03-02-067		
trauma services	MISC 03-02-068		
trusts, annuities, and life estates	MISC 03-02-069		
unearned income	MISC 03-02-070		
Public meetings	MISC 03-02-071		
Rules	MISC 03-02-072		
	MISC 03-04-008		
	MISC 03-04-009		
	MISC 03-04-010		
	MISC 03-04-011		
	MISC 03-04-012		
	MISC 03-04-083		
	MISC 03-04-084	Hazardous liquid pipeline safety	PERM 03-01-064
	PERM 03-02-056	Interpretive or policy statements	MISC 03-04-051
	PROP 03-01-011		MISC 03-04-052
	PREP 03-04-087	Meetings	MISC 03-04-005
	PROP 03-02-055	Remote control locomotive operations	PREP 03-04-004
	PREP 03-04-085	Rules	
	MISC 03-02-109	agenda	MISC 03-04-006
		corrections	PERM 03-01-022
		withdrawals	PROP 03-02-081

**Subject/Agency Index**  
(Citation in **bold type** refer to material in this issue)

Telephone companies rules, clarifications and revisions	PERM 03-01-065 PERM 03-03-090
<b>WASHINGTON STATE PATROL</b> DNA identification	<b>PROP 03-04-070</b>
<b>WASHINGTON STATE UNIVERSITY</b> Meetings Public records officer	MISC 03-03-031 MISC 03-01-040
<b>WATER</b> (See ECOLOGY, DEPARTMENT OF)	
<b>WENATCHEE VALLEY COLLEGE</b> Meetings	
MISC 03-02-051 MISC 03-03-103	
<b>WESTERN WASHINGTON UNIVERSITY</b> Meetings Student rights and responsibilities	
MISC 03-03-105 PERM 03-01-123	
<b>WHATCOM COMMUNITY COLLEGE</b> Control of dogs	
PERM 03-01-071 Meetings	
MISC 03-02-011 Rules	
agenda	
MISC 03-03-074 MISC 03-03-106	
Student rights and responsibilities	
PERM 03-01-072	
<b>WORKFORCE TRAINING AND EDUCATION COORDINATING BOARD</b>	
Meetings	
MISC 03-01-082	















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